

# Planning and Rights of Way Panel

Tuesday, 24th April, 2018  
at 6.00 pm

**PLEASE NOTE TIME OF MEETING**

## **Council Chamber - Civic Centre**

This meeting is open to the public

### **Members**

Councillor Denness (Chair)  
Councillor Savage (Vice-Chair)  
Councillor Barnes-Andrews  
Councillor Claisse  
Councillor Hecks  
Councillor Murphy  
Councillor Wilkinson

### **Contacts**

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## **PUBLIC INFORMATION**

### **ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL**

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

### **PUBLIC REPRESENTATIONS**

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

**SMOKING POLICY** – The Council operates a no-smoking policy in all civic buildings

**MOBILE TELEPHONES:-** Please switch your mobile telephones to silent whilst in the meeting

**USE OF SOCIAL MEDIA:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

**FIRE PROCEDURE** – In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**ACCESS** – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### **Dates of Meetings: Municipal Year 2017/18**

<b>2017</b>	
20 June	3 October
11 July	24 October
1 August	14 November
22 August	5 December
12 September	

<b>2018</b>	
9 January	13 March
30 January	3 April
20 February	24 April

## CONDUCT OF MEETING

### TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:  
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
  - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
  - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **OTHER INTERESTS**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **PRINCIPLES OF DECISION MAKING**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## **AGENDA**

### **1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

### **2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **3 STATEMENT FROM THE CHAIR**

### **4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

(Pages 1 - 8)

To approve and sign as a correct record the Minutes of the meetings held on 13 March 2018 and to deal with any matters arising.

## **CONSIDERATION OF PLANNING APPLICATIONS**

### **5 PLANNING APPLICATION - 18/00347/FUL - 128 -130 WEST END ROAD**

(Pages 13 - 38)

Report of the Service Lead, Planning, Infrastructure and Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

### **6 PLANNING APPLICATION - 17/02378/FUL - MILLBROOK TRADING ESTATE**

(Pages 39 - 54)

Report of the Service Lead, Planning, Infrastructure and Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

### **7 PLANNING APPLICATION - 17/01669/FUL - 4 PRIMROSE ROAD**

(Pages 55 - 70)

Report of the Service Lead, Planning, Infrastructure and Development recommending that conditional approval be granted in respect of an application for a proposed development at the above address.

**8 PLANNING APPLICATION - 12/00596/FUL - BROWNHILL WAY/BROWNHILL RD**  
(Pages 71 - 144)

Report of the Service Lead, Planning, Infrastructure and Development seeking permission for a Deed of Variation to be granted in respect of an application for a proposed development at the above address.

Monday, 16 April 2018

SERVICE DIRECTOR, LEGAL AND GOVERNANCE

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PLANNING AND RIGHTS OF WAY PANEL  
MINUTES OF THE MEETING HELD ON 13 MARCH 2018

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Present: Councillors Denness (except Minute Number 62) (Chair), Savage (Vice-Chair), Barnes-Andrews, Claisse, Hecks, Murphy and Wilkinson

60. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED:** that the Minutes for the Panel meeting on 20 February 2018 be approved and signed as a correct record.

61. **OBJECTION TO THE TREE PRESERVATION ORDER AT WORDSWORTH HOUSE, 85 ANGLESEA ROAD**

The Panel considered the report of the Head of Service regarding an objection to the Southampton (Wordsworth House, Anglesea Road) Tree Preservation Order 2017.

Kevin Cloud (agent) was present and with the consent of the Chair, addressed the meeting.

RECORDED VOTE to confirm the Tree Preservation Order:

FOR: Councillors Savage, Barnes-Andrews, Claisse  
and Murphy

AGAINST: Councillors Hecks and Wilkinson

ABSTAINED: Councillor Denness

**RESOLVED** that the Panel confirmed the Southampton (Wordsworth House, Anglesea Road) Tree Preservation Order 2017 set out in appendix 1 of the report.

**COUNCILLOR SAVAGE IN THE CHAIR**

62. **PLANNING APPLICATION - 17/01206/FUL - 390 - 392 SHIRLEY ROAD**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Redevelopment of the site. Erection of a single storey building to provide a Lidl food store with parking following demolition of existing building.

The Panel acknowledged that a large pack of late papers had been received on 9 March 2018 from Lidl in the form of a brochure seeking to explain the evolution of the application but voted to continue to hear the application. This additional information included a counsel opinion but officer's felt the information did not alter the recommendation.

Steven Galton and Linda Moody (local residents/ objecting), James Mitchell (applicant) and Councillors Denness and Furnell (ward councillors/objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that the reference to “SDP7” cited on page 1 of the report under “Reason for Refusal – Impact on Neighbouring Occupiers” should be removed. The presenting officer added that a late complaint regarding parking had been received from a local resident.

The Panel then considered the recommendation to refuse planning permission. Upon being put to the vote the recommendation was carried.

RECORDED VOTE to refuse planning permission

FOR: Councillors Barnes-Andrews,  
Claisse, Murphy, Savage and Wilkinson

ABSTAINED: Councillor Hecks

**RESOLVED** to refuse planning permission for the reasons set out below:

#### Reasons for Refusal

- (i) **REASON FOR REFUSAL – Impact on neighbouring occupiers**  
The proposed building due to its height, unbroken elevation extending along the common boundary, orientation to the south-east of its residential neighbours and proximity to the neighbouring properties at Mayflower Road would have a detrimental impact on the existing residential amenities of these occupiers in terms of providing an oppressive and overbearing outlook when viewed from habitable room windows in the rear of these dwellings and their associated garden space with additional shading within the rear garden areas. As such the proposal is contrary to 'saved' policies SDP1(i) and SDP9 of the Amended Local Plan Review (2015) and policy CS13 of the Amended Core Strategy (2015).
  
- (ii) **REASON FOR REFUSAL - Lack of Section 106 agreement**  
In the absence of a completed Section 106 Legal Agreement, the proposals fail to mitigate against their direct impacts and do not, therefore, satisfy the provisions of Policy CS25 of the adopted Local Development Framework Core Strategy (2015) as supported by the Council's Developer Contributions Supplementary Planning Document (2013) in the following ways:-
  - (a) Site specific transport works for highway improvements in the vicinity of the site which are directly necessary to make the scheme acceptable in highway terms have not been secured in accordance with Policies CS18, CS19, and CS25 of the Southampton Core Strategy (2015) and the adopted Developer Contributions SPD (2013);
  - (b) In the absence of Submission of a Training and Employment Management Plan committing to adopting local labour and employment initiatives, both during and post construction, in accordance with Policies CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - (c) In the absence of a mechanism for securing a (pre and post construction) highway condition survey it is unlikely that the development will make appropriate repairs to the highway, caused during the construction phase, to the detriment of the visual appearance and usability of the local highway network;



- (d) In the absence of a mechanism for securing a (pre and post construction) highway condition survey it is unlikely that the development will make appropriate repairs to the highway, caused during the construction phase, to the detriment of the visual appearance and usability of the local highway network;
- (e) In the absence of a mechanism for securing the submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013).

**NOTE:** Councillor Denness declared an interest and, after he had spoken, withdrew from the meeting for this item.

### **COUNCILLOR DENNESS IN THE CHAIR**

#### **63. PLANNING APPLICATION - 17/02443/OUT - 2 VICTOR STREET**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Erection of a part 6-storey, part 5-storey building containing 45 flats (5x 3-bed, 6x 2-bed, 34x 1-bed) with associated parking and cycle/refuse storage, following demolition of existing building (Outline application seeking approval for Access, Appearance, Layout and Scale) (amended description)

David Wicks and Corinne Finlay (local residents/ objecting), Rob Wiles (agent) and Councillor Coombs (ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried.

**RECORDED VOTE** to grant planning permission

**FOR:** Councillors Denness, Hecks, Murphy, Savage and Wilkinson

**AGAINST:** Councillors Barnes-Andrews and Claisse

**RESOLVED** that the Panel:

- (i) Delegate to the Service Lead - Infrastructure, Planning and Development to grant planning permission, subject to the planning conditions recommended at the end of this report and to the completion of a S.106 Legal Agreement to secure:
  - a. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site, including the bus stop relocation, service bay, and any necessary Traffic Regulation Orders to facilitate any changes, in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);

- b. Provision of affordable housing in accordance with Policies CS15, CS16 & CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (amended 2015) and the adopted SPD relating to Planning Obligations (September 2013) or details of an independently assessed viability of the project with appropriate triggers for reappraisal;
  - c. Submission of a Training and Employment Management Plan committing to adopting local labour and employment initiatives, both during and post construction, in accordance with Policies CS24 and CS25 of the Local Development Framework Core Strategy Development Plan Document - Adopted Version (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - d. Submission of a highway condition survey to ensure that any damage to the adjacent highway network attributable to the construction process is repaired by the developer;
  - e. Restrictions to prevent future occupiers benefitting from parking permits in surrounding streets;
  - f. Financial contributions towards Solent Disturbance Mitigation in accordance with policy CS22 (as amended 2015) of the Core Strategy and the Conservation of Habitats and Species Regulations 2010; and
  - g. The submission, approval and implementation of a Carbon Management Plan setting out how the carbon neutrality will be achieved and/or how remaining carbon emissions from the development will be mitigated in accordance with policy CS20 of the Core Strategy and the Planning Obligations SPD (September 2013).
- (ii) In the event that the legal agreement is not completed within three months of the decision of the Planning and Rights of Way Panel, the Service Lead - Infrastructure, Planning and Development be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement. Should the scheme be viability tested the application will be brought back to Panel for determination.
  - (iii) That the Service Lead - Infrastructure, Planning and Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

64. **PLANNING APPLICATION - 18/00032/FUL- 17 - 21 PORTSMOUTH ROAD**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Erection of a 4-storey building incorporating retention of building facade to provide 10 flats (8 x one-bedroom and 2 x two-bedroom) and a ground floor commercial gym / fitness area with associated storage and refuse facilities.

Councillor Keogh (ward councillor/objecting) and Councillor Payne (Woolston ward councillor/objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that a petition had been received on 13 March 2018 containing 28 signatories in favour of a gym on this site. The presenting officer stated that Condition 15 should be amended as set out below.

The Panel considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried.

**RESOLVED** that the Panel:

- (i) Delegated approval to the Service Lead – Planning, Infrastructure and Development Manager to grant planning permission subject to the amendment set out below and the completion of a S.106 Legal Agreement to secure:
  - a. Financial contributions towards site specific transport contributions for highway improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Planning Obligations (September 2013);
  - b. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
  - c. Either a scheme of measures or a financial contribution towards Solent Disturbance Mitigation Project to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
  - d. All occupiers of Residential Units are to be notified in writing that they are ineligible to be granted a Residents Parking Permit to park a vehicle within a Residents Parking Bay located in the vicinity of the Land (holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970 being exempt from the requirement to display a Residents Parking Permit when parked in a Residents Parking Bay).
  - e. Employment and Skills Plan to secure training and employment initiatives.
- (ii) In the event that the legal agreement is not completed or progressing within a reasonable timeframe after the Planning and Rights of Way Panel, the Service Lead – Infrastructure, Planning and Development will be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement, unless an extension of time agreement has been entered into.
- (iii) That the Service Lead – Infrastructure, Planning and Development be given delegated powers to add, vary and /or delete relevant parts of the Section 106 agreement and/or conditions as necessary.

**Amended condition**

15. APPROVAL CONDITION - Facade Retention

Prior to any development commencing, including any works of demolition, a detailed methodology statement for the demolition of the building and the retention of the front façade, **including details to demonstrate that the proposed parapet cut-outs will not undermine the structural stability of the façade**, shall be submitted to and agreed in writing with the Local Planning Authority. The statement must demonstrate the manner in which all elements of the front facade are to be retained and protected during demolition and construction and development shall be completed in accordance with the agreed details.

Reason: In the interests of the character of the Conservation Area and the amenities of surrounding occupiers.

65. **PLANNING APPLICATION - 17/02476/FUL - 10 FURZE CLOSE**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Erection of 4 x 3 bed dwellings with associated car parking, bin/refuse and cycle storage.

Matthew Holmes (agent) and Ann Harvey (local resident objecting) were present and with the consent of the Chair, addressed the meeting.

The presenting officer reported that a letter had been received from Chapman Lily Planning Limited dated 6 March 2018 in support of the application. The Planning Officer stated that all references in the report to 218 Middle Road should read 218a Middle Road. The Panel expressed concern over the size of vehicular access within the locality and instructed officers to amend Conditions 12 and 22 as set out below.

The Panel then considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was carried.

**RESOLVED** that the Panel:

- (i) Delegate authority to the Service Lead: Infrastructure, Planning and Development approval to grant planning permission subject to the planning conditions recommended at the end of this report and amended conditions, set out below, and to secure financial contribution towards Solent Disturbance Mitigation Project (SDMP) to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010;
- (ii) Grant the Service Lead: Infrastructure, Planning and Development delegated powers to add, vary and /or delete relevant conditions as necessary: and
- (iii) Grant the Service Lead: Infrastructure, Planning and Development delegated powers for failure to satisfy the requirements of the Conservation of Habitats and Species Regulations 2010.

**Amended Conditions**

**Condition12 - Refuse & Recycling (Pre- Occupation condition)**

Prior to the commencement of development, the following details are required and shall be submitted to and be approved in writing by the Local Planning Authority;

- details of storage for refuse and recycling;
- access to the storage for occupiers and refuse collectors;
- details of a private refuse collection solution including the size of the refuse collection vehicle.

The storage shall be provided in accordance with the agreed details before the development is first occupied and thereafter retained as approved. Unless otherwise agreed by the Local Planning Authority, except for collection days only, no refuse shall be stored to the front of the development hereby approved. Furthermore unless agreed in writing with the Local Planning Authority the approved private refuse collection solution/ vehicles sizes shall be retained in perpetuity.

Reason: In the interests of highway safety, visual amenity, the amenities of future occupiers of the development and the occupiers of nearby properties.

Note to applicant: In accordance with para 9.2.3 of the Residential Design Guide (September 2006): if this development involves new dwellings, the applicant is liable for the supply of refuse bins, and should contact SCC refuse team at Waste.management@southampton.gov.uk at least 8 weeks prior to occupation of the development to discuss requirements. The proposed refuse collection vehicle shall be no larger than the Council refuse vehicle currently serving Furze Close.

**Condition 22 - Construction Management Plan (Pre-Commencement Condition)**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Plan for the development. The Construction Management Plan shall include details of:

- (a) the size of the construction and delivery vehicles;
- (b) parking of vehicles of site personnel, operatives and visitors;
- (c) loading and unloading of plant and materials;
- (d) storage of plant and materials, including cement mixing and washings, used in constructing the development;
- (e) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary;
- (f) measures to be used for the suppression of dust and dirt throughout the course of construction;
- (g) details of construction vehicles wheel cleaning; and,
- (h) details of how noise emanating from the site during construction will be mitigated.

The approved Construction Management Plan shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

Reason:

In the interest of health and safety, protecting the amenity of local land uses, neighbouring residents, the character of the area and highway safety.

66. **PLANNING APPLICATION -12/00596/FUL - BROWNHILL WAY/BROWNHILL RD**

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending that conditional planning permission be granted in respect of an application for a proposed development at the above address.

Erection of 14 two-storey houses (12 x three bedroom and 2 x two bedroom) with associated parking, vehicular access from Lower Brownhill Road and space for a children's play area.

The presenting officer reported that Councillor McEwing had sent an email dated 13 March 2018 objecting to the variation.

The Panel then considered the recommendation to delegate to the Service Lead – Infrastructure, Planning and Development to agree a deed of variation to the Section 106 Agreement dated 30 August 2013. Upon being put to the vote the recommendation was lost.

RECORDED VOTE to grant to grant a deed of variation  
FOR: Councillors Claisse and Hecks  
AGAINST: Councillors Denness, Barnes-Andrews,  
Murphy, Savage and Wilkinson

**RESOLVED** that the Panel did not delegate authority to the Service Lead – Infrastructure, Planning and Development to make a Deed of Variation to vary the Section 106 Agreement dated the 30 August 2013 to reduce the Affordable Housing provision, on viability grounds, to the provision of (i) one on-site unit, identified as Plot 3 (a two-bed detached unit) with a small surplus provided as a financial contribution and (ii) the imposition of the council's standard viability review mechanism clause.

#### Reasons for Refusal

Refuse recommendation to vary original Section 106 Agreement, based on the need for Affordable Housing provision.

# Agenda Annex

## INDEX OF PLANNING APPLICATIONS FOR DECISION

DATE: 24<sup>th</sup> April 2018 - 6pm Conference Rooms 3 and 4, 1st Floor, Civic Centre

Main Agenda Item Number	Officer	Recommendation	PSA	Application Number / Site Address
5	AG	CAP	15	18/00347/FUL 128-130 West End Road
6	MP	CAP	5	17/02378/FUL Millbrook Trading Estate
7	JF/SH	CAP	5	17/01669/FUL 4 Primrose Road
8	SM	DoV	5	12/00596/FUL Brownhill Way/Brownhill Rd

PSA – Public Speaking Allowance (mins); CAP - Approve with Conditions: DEL - Delegate to Officers: PER - Approve without Conditions: REF – Refusal: TCON – Temporary Consent: NOBJ – No objection – s.106 Deed of Variation (Dov)

Case Officers:

AG – Andy Gregory

MP – Mat Pidgeon

JF – John Fanning

SH – Stephen Harrison

SM – Simon Mackie

## Southampton City Council - Planning and Rights of Way Panel

### Report of Planning & Development Manager

#### Local Government (Access to Information) Act 1985

#### Index of Documents referred to in the preparation of reports on Planning

##### Applications:

##### Background Papers

1. Documents specifically related to the application
  - (a) Application forms, plans, supporting documents, reports and covering letters
  - (b) Relevant planning history
  - (c) Response to consultation requests
  - (d) Representations made by interested parties
  
2. Statutory Plans
  - (a) Hampshire, Portsmouth, Southampton and New Forest National Park Minerals and Waste Plan (Adopted 2013)
  - (b) Amended City of Southampton Local Plan Review (Adopted March 2015)
  - (c) Local Transport Plan 2006 – 2011 (June 2006)
  - (d) Amended City of Southampton Local Development Framework – Core Strategy (inc. Partial Review) (adopted March 2015)
  - (e) Adopted City Centre Action Plan (2015)
  - (f) Community Infrastructure Levy Charging Schedule (2013)
  - (g) Bassett Neighbourhood Plan (Adopted 2016)
  
3. Statutory Plans in Preparation
  
4. Policies and Briefs published and adopted by Southampton City Council
  - (a) Old Town Development Strategy (2004)
  - (b) Public Art Strategy
  - (c) North South Spine Strategy (2004)
  - (d) Southampton City Centre Development Design Guide (2004)
  - (e) Streetscape Manual (2005)
  - (f) Residential Design Guide (2006)
  - (g) Developer Contributions SPD (September 2013)
  - (h) Greening the City - (Shoreburs; Lordsdale; Weston; Rollesbrook Valley; Bassett Wood and Lordswood Greenways) - 1985-1995.
  - (i) Women in the Planned Environment (1994)
  - (j) Advertisement Control Brief and Strategy (1991)
  - (k) Biodiversity Action Plan (2009)
  - (l) Economic Development Strategy (1996)
  - (m) Test Lane (1984)
  - (n) Itchen Valley Strategy (1993)



- (o) Portswood Residents' Gardens Conservation Area Character Appraisal (1999)
- (p) Land between Aldermoor Road and Worston Road Development Brief Character Appraisal(1997)
- (q) The Bevois Corridor Urban Design Framework (1998)
- (r) Southampton City Centre Urban Design Strategy (2000)
- (s) St Mary's Place Development Brief (2001)
- (t) Ascupart Street Development Brief (2001)
- (u) Woolston Riverside Development Brief (2004)
- (v) West Quay Phase 3 Development Brief (2001)
- (w) Northern Above Bar Development Brief (2002)
- (x) Design Guidance for the Uplands Estate (Highfield) Conservation Area (1993)
- (y) Design Guidance for the Ethelburt Avenue (Bassett Green Estate) Conservation Area (1993)
- (z) Canute Road Conservation Area Character Appraisal (1996)
- (aa) The Avenue Conservation Area Character Appraisal (1997)
- (bb) St James Road Conservation Area Character Appraisal (1996)
- (cc) Banister Park Character Appraisal (1991)\*
- (dd) Bassett Avenue Character Appraisal (1982)\*
- (ee) Howard Road Character Appraisal (1991) \*
- (ff) Lower Freemantle Character Appraisal (1981) \*
- (gg) Mid Freemantle Character Appraisal (1982)\*
- (hh) Westridge Road Character Appraisal (1989) \*
- (ii) Westwood Park Character Appraisal (1981) \*
- (jj) Cranbury Place Character Appraisal (1988) \*
- (kk) Carlton Crescent Character Appraisal (1988) \*
- (ll) Old Town Conservation Area Character Appraisal (1974) \*
- (mm) Oxford Street Conservation Area Character Appraisal (1982) \*
- (nn) Bassett Green Village Character Appraisal (1987)
- (oo) Old Woolston and St Annes Road Character Appraisal (1988)
- (pp) Northam Road Area Improvement Strategy (1987)\*
- (qq) Houses in Multiple Occupation (2012)
- (rr) Vyse Lane/ 58 French Street (1990)\*
- (ss) Tauntons College Highfield Road Development Guidelines (1993)\*
- (tt) Old Woolston Development Control Brief (1974)\*
- (uu) City Centre Characterisation Appraisal (2009)
- (vv) Parking standards (2011)

\* NB – Policies in these documents superseded by the Residential Design Guide (September 2006, page 10), albeit character appraisal sections still to be had regard to.

## 5. Documents relating to Highways and Traffic

- (a) Hampshire C.C. - Movement and Access in Residential Areas
- (b) Hampshire C.C. - Safety Audit Handbook
- (c) Southampton C.C. - Cycling Plan (June 2000)
- (d) Southampton C.C. - Access for All (March 1995)

- (e) Institute of Highways and Transportation - Transport in the Urban Environment
- (f) I.H.T. - Traffic Impact Assessment Guidelines
- (g) Freight Transport Association - Design for deliveries
- (h) DETR Traffic Advisory Leaflets (various)

6. Government Policy Planning Advice

- (a) National Planning Policy Framework (27.3.2012)
- (b) National Planning Policy Guidance Suite

7. Other Published Documents

- (a) Planning for Daylight and Sunlight - DOE
- (b) Coast and Countryside Conservation Policy - HCC
- (c) The influence of trees on house foundations in clay soils - BREDK
- (d) Survey and Analysis - Landscape and Development HCC
- (e) Root Damage to Trees - siting of dwellings and special precautions – Practice Note 3 NHDC
- (f) Shopping Policies in South Hampshire - HCC
- (g) Buildings at Risk Register SCC (1998)
- (h) Southampton City Safety Audit (1998)
- (i) Urban Capacity Study 2005 – 2011 (March 2006)
- (j) Strategic Housing Land Availability Assessment (March 2013)

**Planning and Rights of Way Panel 24<sup>th</sup> April 2018**  
**Planning Application Report of the Service Lead – Infrastructure, Planning and Development.**

<b>Application address:</b> 128-130 West End Road, Southampton			
<b>Proposed development:</b> Change of use from a drinking establishment (Class A4) to flexible use within A1, A2, A3 or A4 (Retail, financial, professional services, restaurants, cafe and drinking establishments).			
<b>Application number</b>	18/00347/FUL	<b>Application type</b>	Full
<b>Case officer</b>	Andrew Gregory	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	Over	<b>Ward</b>	Harefield
<b>Reason for Panel Referral:</b>	Five or more letters of objections have been received.	<b>Ward Councillors</b>	Cllr Daniel Fitzhenry Cllr Valerie Laurent Cllr Peter Baillie

<b>Applicant:</b> MHH Poole Ltd	<b>Agent:</b> HLF Planning Ltd
<b>Recommendation Summary</b>	Conditionally Approve
<b>Community Infrastructure Levy Liable</b>	<b>No</b>

**Reason for granting Planning Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The pub was marketed for freehold sale for 6 months without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period. Furthermore there are alternative pubs and community buildings within the surrounding area to meet the day to day needs of the community. The premises has a floor area of less than 750 sqm and therefore the proposed flexible use would not have an adverse impact on the viability of existing town and district centres. The site does not have a site specific policy allocation and the range of flexible uses are appropriate for this vacant pub site. Other material considerations including, impact on neighbouring amenity, tree impact and on street car parking pressure have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP10, REI7 of the City of Southampton Local Plan Review (Amended 2015) and CS3, CS18, CS19 and CS20 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

<b>Appendix attached</b>			
1	Development Plan Policies	4	Map to show location of nearby pubs
2	ACV Decision Notice	5	PROW Minutes
3	ACV Notice of Intended Disposal	6	Decision notice ref 17/00750/FUL

## **Recommendation in Full**

Conditionally Approve

## **Background**

Savills were instructed to dispose of the Big Cheese Public House on behalf of Green King PLC in July 2016. Green King took the decision to dispose of the asset because of declining return and because a re-branding exercise (Hungry Horse) had failed to improve turnover and profitability. The pub was marketed between July 2016 and December 2016 for freehold sale and as having potential for retail conversion and residential redevelopment opportunity. During this period, three acceptable offers were received, all from residential developers. The pub was closed in February 2017 and sold for £651,000 to a residential developer, £510,000 over the guide price.

### *Asset of Community Value*

The Localism Act was introduced in November 2011 and gave communities a chance to save assets that are important to them. The Department of Communities and Local Government indicate that ‘assets of community value’ can include pubs. The Community Right to Bid came into effect on 21 September 2012. Local Authorities are required to keep a list of all these ‘assets of community value’ (ACV). If an owner of a listed asset wants to sell it they have to notify the local authority. The local authority then has to notify any interested parties. If community groups are interested in buying an asset they can use the Community Right to Bid to ‘pause’ the sale, giving them 6 months to prepare a bid to buy it before the asset can be sold.

The Council received an ACV nomination from a community interest group on 14 February 2017 (supported by a petition with circa 150 signatories) and decided to list the Big Cheese Public House as an ACV on 27 April 2017 for the following reasons:

*“From the evidence submitted in recent times ie prior to its closure earlier this year, the premises were of significant and wide-ranging benefit to the community and community groups over and above simply being a well-used pub.”*

On 18 May 2017, the owner notified the Council of their intention to sell the property and the community interest group responsible for the listing were given until 29 June 2017 to make a request to be treated as a bidder and until 18 November 2017 to complete a bid. It should be noted that the provisions of the community right to bid do not restrict in any way who the owner of a listed asset can sell their property to, or at what price. As such the

owner is under no obligation to dispose of the property to the community interest group and after the 18 November 2017 is free to sell on the open market. The community group made a request to be treated as a bidder however no bid was made by 18 November 2017 and therefore the owner is now free to sell on the open market.

A planning application for residential redevelopment comprising 10 x 3-bed houses following demolition of the public house was submitted on 08 May 2017 (LPA Ref 17/00750/FUL). Consideration of this application was delayed until expiration of the ACV moratorium period. On 09 January 2018 the Planning and Right of Way Panel resolved to refuse planning permission for overdevelopment and S106 reasons with no principle objection to loss of the public house. An appeal against the decision is pending but the loss of the ACV or pub use is not an issue that the Council will be defending.

## **1 The site and its context**

- 1.1 The application site has an area of 0.2 hectares and comprises a vacant public house. A large car parking area is located to the side and garden area to the rear. Access is taken from West End Road, in close proximity to the West End Road / Mousehole Lane / Dean Road / Townhill Park roundabout. The pub building is now boarded up and temporary herris fencing has been installed to secure the site. Mature trees, protected by the Southampton (Bitterne Village) Tree Preservation Order 1974, enclose the side and rear boundaries to Dean Road and Tenby Close.
- 1.2 The area surrounding the site is predominantly residential, comprising a mix of two storey housing and 3-4 storey flatted blocks. A convenience retail unit occupies the adjoining site to the north-east. The nearest alternative pubs are the Fox and Hound, Humble Plum and the Red Lion, all less than 1 mile from The Big Cheese Public House. Alternative community meeting places within the vicinity include Gordon Hall and Moorlands Community Centre all within 1 mile of the Big Cheese Public House. Bitterne District Centre is 0.6miles from the site.

## **2 Proposal**

- 2.1 The proposal seeks change of use from a drinking establishment (Class A4) to flexible use within A1, A2, A3 or A4 (Retail, financial, professional services, restaurants, cafe and drinking establishments). The proposal is not seeking planning permission to demolish the existing building.
- 2.2 The submission indicates that the applicants are seeking to establish a fallback position should they fail to secure planning permission for a viable residential redevelopment scheme. The applicants have lodged an appeal following refusal of residential redevelopment for 10 houses and whilst this current planning application must be considered on face value, it is possible that should this application for flexible use be granted, then the applicants may use the decision as evidence to support the loss of this public house at appeal, despite it not forming a Reason for Refusal by the Council.

## **3 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at Appendix 1.

- 3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated
- 3.3 A key thread to the NPPF is the promotion of healthy communities (section 8 refers). Paragraph 69 indicates that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Paragraph 70 goes on to indicate the need to plan positively for the provision for community facilities and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
- 3.4 Policy CS3 of the Core Strategy (January 2010) is the Council's most up to date planning policy relating to community facilities and indicates that:  
*"proposals that result in the loss of a community facility throughout the city will not be supported if it is viable for the commercial, public or community sector to operate it and if there are no similar or replacement facility in the same neighbourhood. Community facilities include: community buildings; drop-in centres / day centres; Meeting Rooms / Day Centres; Places of Worship; Sports Club and recreation; Youth Clubs / Scout huts / Guide huts / Clubs for Senior Citizens."*
- 3.5 Public houses and cafes are not included within the list of community facilities as set out within policy CS3. However it should be noted that the Council did seek to have public houses included within the defined list of community facilities within the draft Local Development Framework. During the examination into the Core Strategy the Inspector decided not to include pubs and cafes for the following reasons:  
*"Whilst desirable in principle, experience elsewhere suggests that such a policy can be difficult and complex to operate reasonably and realistically in practice, especially in relation to commercially run facilities and privately owned businesses, such as public houses and cafes, as distinct from public sector organisations.....  
 Moreover, in a densely built up area such as Southampton, unlike a small rural settlement, equivalent or similar businesses are usually available nearby and within a reasonable walking distance. In such circumstances it is not necessary or realistic for the Council to seek to control the operations of the free market in this way in relation to public houses and cafes, which can be distinguished from the other types of community facilities listed by virtue of their normally operating in the fully commercial sector."*
- 3.6 The National Planning Policy Framework post-dates this analysis and specifically references pubs as community use and as such becomes directly relevant.
- 3.7 The site does not have a site-specific policy allocation and is located outside of a defined town, district and local centre. Section 02 of the National Planning Policy Framework and policy CS3 of the Core Strategy indicates that retail and commercial uses with a floor area of less than 750sqm can be supported outside of existing town, district and local centres.

#### **4. Relevant Planning History**

4.1 A planning application for residential redevelopment comprising 10 x 3-bed houses following demolition of the public house (LPA Ref 17/00750/FUL) was refused on 12.01.2018 for the following reasons:

##### **01. Site Overdevelopment**

The proposed redevelopment represents an overdevelopment of the site by reason of a residential layout and design that fails to respond to the established pattern of development within the locality, is reliant upon a significant amount of building and hardstanding (in excess of 50% of the site), fails to meet the Council's standards in respect of useable amenity space; particularly in respect of Units 1-3, but also in terms of usability for Units 8-10 given the boundary planting and subsequent shade, and which proposes car parking in close proximity to the main living space of Units 8-10 to the detriment of these residents' amenity in terms of noise, disturbance and headlight glare. As such, the application is considered to fail the requirements of Local Plan Review (Amended 2015) policies SDP1 (i) and SDP7 as supported by Policy CS13 of the adopted Local Development Framework Core Strategy (2015) and the relevant paragraphs from the Council's approved Residential Design Guide SPD (2006); with particular reference to sections 3.9 and 4.4 and paragraph 2.3.14.

##### **02. Lack of Section 106 agreement to secure planning obligations.**

In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:

- i. Contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015) Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Developer Contributions (April 2013);
- ii. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer;
- iii. Contributions or otherwise towards a scheme of measures that mitigate against the impacts of the development on the Solent Special Protection Area as required by LDF Core Strategy (Amended 2015) policies CS22 and CS25; and
- iv. An Employment Training and Skills Plan to secure local employment initiatives during the construction phase as required by LDF Core Strategy Policy CS24.

#### **5 Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (23.03.2018). At the time of writing the report 56 representations have been received from surrounding residents. The following is a summary of the points raised.

##### **5.2 Loss of the public house as a community meeting place**

*Officer Response – The pub has been closed since February 2017. The site was marketed as a freehold pub for sales for 6 months and during that period no*

*acceptable offers were received from pub operators. Furthermore no bid was made by the community group during the ACV moratorium period. There are alternative public house and community buildings with the area to meet the day to day needs of the community. The Council does not have a public house protection policy (see planning policy section). The proposed range of flexible uses incorporates A4 (Drinking Establishment) and therefore the premises could re-open as a public house if the developer fails to secure a viable scheme for residential redevelopment or alternative fall back us.*

**5.3 No other pubs in the area have disabled facilities to this high standard and this is the only pub locally which is fully DDA compliant.**

*Officer Response – The proposal does not seek to demolish the existing building. It is unfortunate that this pub has been closed but attempts by the previous owners to run a viable pub appear to have failed and there was no viable interest from other pub operators when the site was marketed. Furthermore no bid was made by the community interest group to purchase the pub during the ACV moratorium period. It would be unreasonable to refuse to support alternative uses on this site simply because this closed pub building is fully DDA compliant.*

**5.4 The community does not need any new shops, dentists or businesses within the local area.**

*Officer Response – The proposed flexible uses can be supported outside of existing centres on the basis that that the pub building has a floor area of less than 750sqm. The proposed flexible uses will have no new impacts on character or neighbouring amenity having regard to the authorised A4 use. It rests with the market to decide if additional shops, restaurants or businesses would be viable. It should be noted that Savills marketing evidence dated 20 June 2017, does indicate that the pub was marketed to retailers and other interested parties however no acceptable offers were received. However there is no policy requirement for the applicants to demonstrate need for the proposed range of flexible uses.*

**Consultation Responses**

**5.5 SCC Highways – No objection subject to conditions.**

In terms of trip generation, the level of difference between the existing and proposed uses will be dependent on the end-user and therefore difficult to clearly assess. However, as a worst case scenario, generally, a food retail use (A1) would have the biggest impact from highway's perspective. Most importantly, although A4 uses do usually require large servicing vehicles, A1 use could require an articulated lorry (16.5m) and therefore in order to allow for an A1 use, tracking diagrams will be required in order to demonstrate that a 16.5m articulated lorry can enter and leave the site in a forward gear.

**5.6 Environmental Health – No objection. The premises has previously been used as a food establishment with necessary extraction equipment and refuse storage provision which is not indicated to change drastically.**

**6. Planning Consideration Key Issues**

**6.1 The key issues for consideration during the determination of this planning application are:**

- The principle of the development;
- The impact on the amenities of neighbouring and surrounding residents;
- Highway matters.



## Principle of Development

- 6.2 The Big Cheese Public House has been closed since February 2017. Green King took the decision to dispose of the asset because of declining return and because a re-branding exercise (Hungry Horse) had failed to improve turnover and profitability. A marketing exercise for freehold sale was carried out by Savills between July 2016 and December 2016 however no acceptable offers were received from pub operators or other groups or individuals seeking retained public house use. All offers were from residential developers.
- 6.3 DCLG (non-statutory) guidance in the 'Community Right to Bid: Non-statutory advice note for local authorities (October 2012) indicates that:
- "...the fact that the site is (a) listed (Aocv) may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case."*  
(Para 2.20 refers)
- 6.4 In this case, it is considered the Asset of Community Value can now only be given limited weight because the community group did not make a bid for the premises during the 6 month moratorium period. The ACV listing process is designed to give community groups the opportunity to purchase and operate valued community buildings. The ACV process does not protect community buildings from redevelopment if no community bid is made. The current owner is now free to sell the site on the open market for a protected period of 12 months following the close of the moratorium period on 18 November 2017. A copy of the Council's Decision to list the Big Cheese as an Asset of Community Value is attached as *Appendix 2* and a copy of the Notice of Intended Disposal is attached as *Appendix 3*.
- 6.5 Public houses are not protected within the development plan and they not defined as community facilities under the requirements of policy CS3 of the Core Strategy. Paragraph 70 of the National Planning Policy Framework, which post-dates policy CS3, does indicate that public houses can be considered as community facilities and that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Whilst the loss of the Big Cheese Public House will clearly reduce the number and availability of public houses within this area, it is not considered to reduce the community's ability to meet its day to day needs having regard to the availability of alternative pubs and community facilities within the vicinity of the site, namely:
- Alternative A4 pub uses
- The Fox and Hounds Public House (0.3 miles / 5 minute walk from the site)
  - Humble Plumb (0.4 miles / 7 minute walk from the site)
  - The Red Lion (0.6 miles / 13 minute walk from the site)
- Alternative community facilities
- The Gordon Hall (0.1 miles / 2 minute walk from the site)
  - Moorlands Community Centre (0.4 miles / 7 minute walk from the site)
- 6.6 A plan showing the location of alternative public houses within this area is attached as Appendix 4. The previous decision to refuse planning permission for residential redevelopment raised no principle objection regarding loss of the public house because the premises was marketed for freehold sale for 6 months

without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period.

- 6.7 A copy of the minutes from the Planning and Rights of Way meeting are attached as *Appendix 5* and the previous decision notice is attached as *Appendix 6*.
- 6.8 The proposed flexible uses can be supported outside of existing centres on the basis that that the pub building has a floor area of less than 750sqm. The proposed flexible uses will have no new impacts on character or neighbouring amenity having regard to the authorised A4 use. Therefore the principle of change of use to flexible use within A1, A2, A3 or A4 is supported.

The impact on the amenities of neighbouring and surrounding residents;

- 6.9 The proposed development will have no adverse impact on the residential amenities of neighbouring occupiers having regard to the existing authorised A4 use with provision for 33 car parking spaces. A condition will be added to require details of any new extract ventilation equipment to be agreed in writing with the Local Planning Authority to guard against additional noise impact.

Highways

- 6.10 No objection has been raised by Highways Development Management. The existing car park provides 33 car parking spaces for the authorised A4 use. The size of the car park can comfortably accommodate the maximum level of car parking spaces for A1, A2 and A3 use for a building of this size (333sqm) as set out within the Car Parking Standards SPD. The maximum provision required is 11 spaces for A1 and A3 use and 16 spaces for A2 use. A large servicing area is provided to the front however vehicle tracking is required to demonstrate that a 16m long articulated lorry could manoeuvre on site to serve A1 retail use and a planning condition linked to an A1 use is recommended. Adequate space is available on site to provide cycle and refuse storage to serve the proposed flexible uses.

## **7 Summary**

- 7.1 The pub freehold was marketed for 6 months without any interest from existing pub operators and no bid was made by the community interest group during the asset of community value moratorium period. Furthermore there are alternative pubs and community buildings within the surrounding area to meet the day to day needs of the community. The premises has a floor area of less than 750 sqm and therefore the proposed flexible use would not have an adverse impact on the viability of existing town and district centres and there is no planning policy objection on this basis. The site does not have a site specific policy allocation and the range of flexible uses are appropriate for this vacant pub site.

## **8 Conclusion**

- 8.1 The positive aspects of the scheme are not judged to be outweighed by the negative, despite the significant local objection and as such the scheme is recommended for conditional approval.

## **Local Government (Access to Information) Act 1985**

### **Documents used in the preparation of this report Background Papers**

1 (a) (b) (c) (d), 2 (b) (c) (d), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

## **AG for 24/04/2018 PROW Panel**

### **PLANNING CONDITIONS**

#### **01. APPROVAL CONDITION - Full Permission Timing Condition - Change of use**

The use hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990(as amended).

#### **02. APPROVAL CONDITION - control of noise, fumes and odour [Pre-Commencement Condition]**

If the building is to be occupied for A3 use and new extract ventilation is required, the use shall not commence until a written scheme for the control of noise, fumes and odours from extractor fans and other equipment have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and findings and retained thereafter as agreed.

Reason: To protect the amenities of the occupiers of existing nearby properties.

#### **03. APPROVAL CONDITION - Hours of Use [Performance Condition]**

Unless otherwise agreed in writing by the Local Planning Authority the uses hereby approved shall not operate outside the following hours:

Monday to Sunday 0700hours - 2300hours (7.00am to 11.00pm)

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

#### **04. APPROVAL CONDITION - Floorspace flexibility**

The units can flip between the agreed uses and this "dual A1 (retail) and/or A2 (financial and professional) and/or A3 (restaurant) and/or A4 (drinking establishment) " hereby permitted for the development shall, under Class E Part 3 Schedule 2 of the Town and County Planning (General Permitted Development) Order 1995, be for a limited period of 10 years only from the date of this Decision Notice. The units shall remain as the prevailing use at that time as hereby agreed in writing by the Local Planning Authority.

Reason: In order to provide greater flexibility to the development and to clarify the lawful use hereby permitted and the specific criteria relating to this use

#### **05. APPROVAL CONDITION - Servicing Management**

If the building is to be occupied for A1 retail use, a servicing management plan shall be submitted to the Local Planning Authority and agreed in writing. The servicing management plan shall include details of the maximum length of vehicle to service the site and shall demonstrate that servicing vehicles can enter and leave the site in a forward gear

Reason: In the interests of highway and pedestrian safety.

#### 07. APPROVAL CONDITION - Cycle parking (Pre-Commencement Condition)

Before the development hereby approved first comes into occupation, cycle parking facilities shall be provided and made available for use in accordance with plans to be submitted and agreed in writing by the Local Planning Authority. The cycle parking facilities shall thereafter be retained as approved.

Reason: To encourage cycling as an alternative form of transport.

#### 08. APPROVAL CONDITION - Active Ground Floor Frontage (Performance)

Notwithstanding the provisions of Class 12 of Schedule 3 of the Class 12 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 2007, or any Order amending, revoking or re-enacting these Regulations, the occupiers of the ground floor frontage to north and east-facing elevations of the building hereby approved shall retain clear glazing on the ground floor along the length of the shop frontages hereby approved (without the installation of window vinyl or equivalent) unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of retaining a lively and attractive street scene without obstruction and to improve the natural surveillance offered by the development.

#### 09. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

18/00347/FUL

## **POLICY CONTEXT**

### Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change

### City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP10	Safety & Security
REI7	Food and Drink Uses

### Supplementary Planning Guidance

Parking Standards SPD (September 2011)

### Other Relevant Guidance

The National Planning Policy Framework (2012)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

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**SERVICE DIRECTOR: LEGAL & GOVERNANCE**  
**RICHARD IVORY, Solicitor**  
Southampton City Council  
Civic Centre  
Southampton SO14 7LY

**FAREHAM**  
BOROUGH COUNCIL



**Southampton and Fareham Legal Services Partnership**

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IP33 1QT

Direct dial: 023 8083 2794  
Please ask for: Richard Ivory  
Our Ref: RJI/CL09-14-016891  
Your ref:  
Date: 10 May, 2017

Dear Sirs

**LOCALISM ACT 2011**  
**NOTIFICATION OF DETERMINATION: ASSET OF COMMUNITY VALUE:**  
**THE BIG CHEESE, 128-130 WEST END ROAD, SOUTHAMPTON**

Further to the original application dated 11<sup>th</sup> February 2017 to register the Big Cheese Public House, 128-130 West End Road, Southampton as an Asset of Community Value (ACV), I am writing to notify you of the Council's decision on whether to list the property or not and the reasons for that decision.

Under powers delegated to me by the Council I have considered the application and have decided to list the property. The reasons for this decision is that whilst the public house is currently closed it is capable of reopening. From the evidence submitted in recent times ie prior to its closure earlier this year, the premises were of significant and wide-ranging benefit to the community and community groups over and above simply being a well-used pub.

Accordingly, the premises will be listed on the Council's Register as an ACV.

If you wish to appeal against this listing you must do so within 8 weeks of the date of this letter in writing to me. A senior officer who was not involved in the original decision will review the matter.

Yours faithfully,

**Richard J Ivory**  
**Service Director: Legal & Governance**

**If you would like this letter sent to you in another format or language,  
please contact the number at the top of this letter.**

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## LOCALISM ACT 2011

### ASSETS OF COMMUNITY VALUE – NOTICE OF INTENDED DISPOSAL

#### OF LISTED LAND

#### THE BIG CHEESE PUBLIC HOUSE, 128-130 WEST END ROAD, BITTERNE, SOUTHAMPTON, S018 6PH

NOTICE is hereby given that on 18<sup>th</sup> May 2017 the owner of The Big Cheese Public House ('the property') notified the Council pursuant to section 95(2) of the Localism Act 2011 ('the Act') that it intends to dispose of (i.e. sell) the property. The property has been listed as an asset of community value since 27<sup>th</sup> April 2017.

Any community interest group (as defined in the Act and the Asset of Community Value (England) Regulations 2012) may now make a written request to be treated as a bidder for the property. Such requests must be made before the end of the interim moratorium period, which expires on 29<sup>th</sup> June 2017.

If any community interest group makes a written request then a full moratorium period will apply, expiring on 18<sup>th</sup> November 2017.

During the moratorium periods the owner may not dispose of the property other than to a community interest group (or where the disposal falls within an exemption identified in the Act or Regulations).

If no sale to a community interest group is agreed during the applicable moratorium period, then the owner will be free to sell the property on the open market during a protected period expiring on 18<sup>th</sup> November 2018.

Any community interest group wishing to be treated as a bidder should contact Richard Ivory, Service Director: Legal and Governance, Southampton City Council, Civic Centre, Southampton, SO14 7LY, Tel: 02380 832794 Email: [richard.ivory@southampton.gov.uk](mailto:richard.ivory@southampton.gov.uk).

**Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY**

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Rating

★★★★★

**The Butcher's Hook Alehouse**

4.8 ★★★★★ (109)

Pub · 7 Manor Farm Rd



**The Red Lion**

4.0 ★★★★★ (231)

E · Pub · 438 Bitterne Rd

Open until 00:00



**Hop Inn**

4.2 ★★★★★ (42)

Pub · Woodmill Lane

Opens at 12:00



**Humble Plumb**

4.3 ★★★★★ (82)

Pub · 71 Commercial St

Relaxed pub with open fireplaces

Opens at 12:00



**The Station**

3.8 ★★★★★ (51)

Pub · 99 Bullar Rd

Open until 00:00



**The Fox & Hounds**

★★★★★ (19)

Pub · 106 Pound St

Family-friendly country pub & restaurant

Open until 23:00



**Bittern**

4.0 ★★★★★ (49)

Pub · 26-28 Thornhill Park Rd

Open until 23:00



**The Bitterne Park Hotel**

3.4 ★★★★★ (8)

Hotel · 2-4 Cobden Ave



**red lion**

Bar · Bitterne Rd



**The Two Brothers**

3.4 ★★★★★ (138)

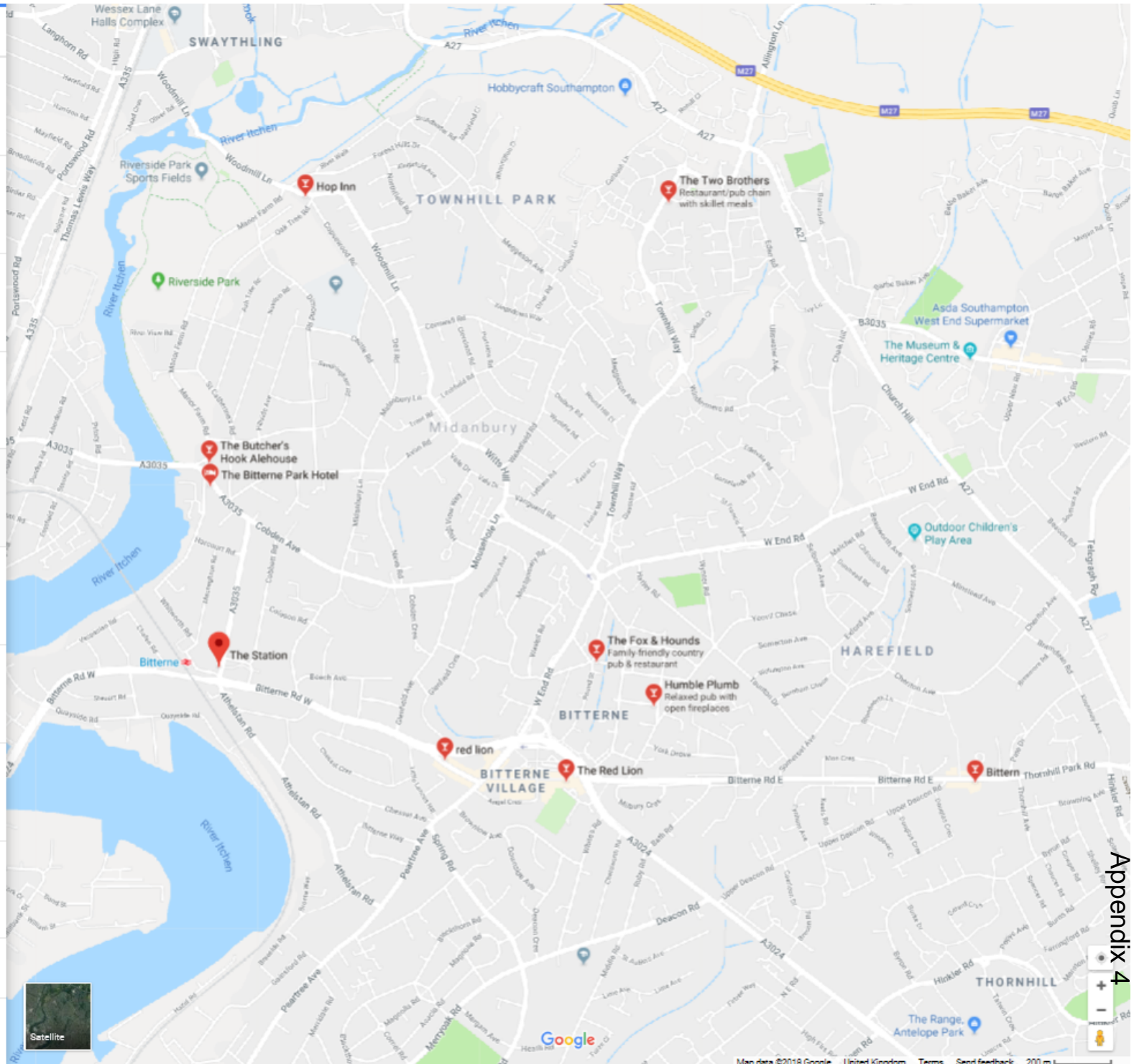
E · Pub · Townhill Way



Showing results 1 - 10



Update results when map moves



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# Minute Extract Planning and Rights of Way meeting – 9 January 2018

## Minute Number 47 - Planning Application - 17/00750/FUL - 128-130 West End Road

Report of the Service Lead, Planning, Infrastructure and Development recommending that the Panel delegate approval in respect of an application for a proposed development at the above address.

### Minutes:

The Panel considered the report of the Service Lead, Planning, Infrastructure and Development recommending delegated authority be granted in respect of an application for a proposed development at the above address.

Redevelopment of the site. Erection of 10 x 3-bed, 2-storey dwellings with accommodation in roof space, in a terrace block of 5, a terrace block of 3 and 2 x semi-detached, with associated car port, parking and cycle/refuse storage, following demolition of existing public house (amended description).

Allan Lloyd, Michelle Baker, Andrea Fox (local residents/ objecting), David Bevan (agent), and Councillor Letts (objecting) were present and with the consent of the Chair, addressed the meeting.

The Panel considered the recommendation to delegate authority to the Service Lead: Planning, Infrastructure and Development to grant planning permission. Upon being put to the vote the recommendation was lost.

A further motion to refuse to delegate planning permission for the reasons set out below was then proposed by Councillor Denness and seconded by Councillor Hecks was carried unanimously.

**RESOLVED** to refuse planning permission for the reasons set out below:

Reasons for Refusal

#### 1. Site Overdevelopment

The proposed redevelopment represents an overdevelopment of the site by reason of a residential layout and design that fails to respond to the established pattern of development within the locality, is reliant upon a significant amount of building and hardstanding (in excess of 50% of the site), fails to meet the Council's standards in respect of useable amenity space; particularly in respect of Units 1-3, but also in terms of usability for Units 8-10 given the boundary planting and subsequent shade, and which proposes car parking in close proximity to the main living space of Units 8-10 to the detriment of these residents' amenity in terms of noise, disturbance and headlight glare. As such, the application is considered to fail the requirements of Local Plan Review (Amended 2015) policies SDP1(i) and SDP7 as supported by Policy CS13 of the adopted Local Development Framework Core Strategy (2015) and the relevant paragraphs from the Council's approved Residential Design Guide SPD (2006); with particular reference to sections 3.9 and 4.4 and paragraph 2.3.14.

## **2. Lack of Section 106 agreement to secure planning obligations.**

In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:

- i. Contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015) Policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted SPD relating to Developer Contributions (April 2013); and
- ii. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer; and
- iii. Contributions or otherwise towards a scheme of measures that mitigate against the impacts of the development on the Solent Special Protection Area as required by LDF Core Strategy (Amended 2015) policies CS22 and CS25; and
- iv. An Employment Training and Skills Plan to secure local employment initiatives during the construction phase as required by LDF Core Strategy Policy CS24.



## DETERMINATION OF APPLICATION

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (Development Management Procedure) (England) Order 2015

Aspire Architects  
Mr Matt Stevens  
17A High Street  
Christchurch  
BH23 1AB

In pursuance of its powers under the above Act and Order, Southampton City Council as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

#### FULL APPLICATION - REFUSAL

**Proposal:**                    **Redevelopment of the site. Erection of 10 x 3-bed, 2-storey dwellings with accommodation in roof space, in a terrace block of 5, a terrace block of 3 and 2 x semi-detached, with associated car port, parking and cycle/refuse storage, following demolition of existing public house (amended description).**

**Site Address:**            **128-130 , West End Road, Southampton SO18 6PH**

**Application No:**        **17/00750/FUL**

For the following reason(s):

1.        Site Overdevelopment

The proposed redevelopment represents an overdevelopment of the site by reason of a residential layout and design that fails to respond to the established pattern of development within the locality, is reliant upon a significant amount of building and hardstanding (in excess of 50% of the site), fails to meet the Council's standards in respect of useable amenity space; particularly in respect of Units 1-3, but also in terms of usability for Units 8-10 given the boundary planting and subsequent shade, and which proposes car parking in close proximity to the main living space of Units 8-10 to the detriment of these residents' amenity in terms of noise, disturbance and headlight glare. As such, the application is considered to fail the requirements of Local Plan Review (Amended 2015) policies SDP1(i) and SDP7 as supported by Policy CS13 of the adopted Local Development Framework Core Strategy (2015) and the relevant paragraphs from the Council's approved Residential Design Guide SPD (2006); with particular reference to sections 3.9 and 4.4 and paragraph 2.3.14.

2.        Lack of Section 106 agreement to secure planning obligations.

In the absence of a Section 106 agreement the development fails to mitigate its impact in the following areas:

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- ii.     Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer; and

- iii. Contributions or otherwise towards a scheme of measures that mitigate against the impacts of the development on the Solent Special Protection Area as required by LDF Core Strategy (Amended 2015) policies CS22 and CS25; and
- iv. An Employment Training and Skills Plan to secure local employment initiatives during the construction phase as required by LDF Core Strategy Policy CS24.

**Note to Applicant - Community Infrastructure Liability (Refusal)**

You are advised that, had the development been acceptable, it could be liable to pay the Community Infrastructure Levy (CIL). Please ensure that, should you chose to reapply or appeal, you assume CIL liability prior to the commencement of the development (including any demolition works) otherwise a number of consequences could arise. For further information please refer to the CIL pages on the Council's website at: <http://www.southampton.gov.uk/planning/community-infrastructure-levy/default.aspx> or contact the Council's CIL Officer



**Samuel Fox**  
**Planning & Development Manager**

12 January 2018

For any further enquiries please contact:

**Andrew Gregory**

**IMPORTANT NOTE TO APPLICANT**

This decision has been made in accordance with the submitted application details and supporting documents and in respect of the following plans and drawings:

<b>Drawing No:</b>	<b>Version:</b>	<b>Description:</b>	<b>Date Received:</b>	<b>Status:</b>
ASP.17.048.001	a	Location Plan	27.11.2017	Refused
ASP.17.048.002	a	Site Plan	27.11.2017	Refused
ASP.17.048.205		General Plan	27.11.2017	Refused
ASP.17.048.100		Floor Plan		Refused
ASP.17.048.101		Floor Plan		Refused
ASP.17.048.102		Floor Plan		Refused
ASP.17.048.103		Floor Plan		Refused
ASP.17.048.200		Elevational Plan		Refused
ASP.17.048.201		Elevational Plan		Refused
ASP.17.048.202		Elevational Plan		Refused
ASP.17.048.203		Elevational Plan		Refused
ASP.17.048.204		Elevational Plan		Refused
ASP.17.048.300		Street scene		Refused



## NOTES

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, they may appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

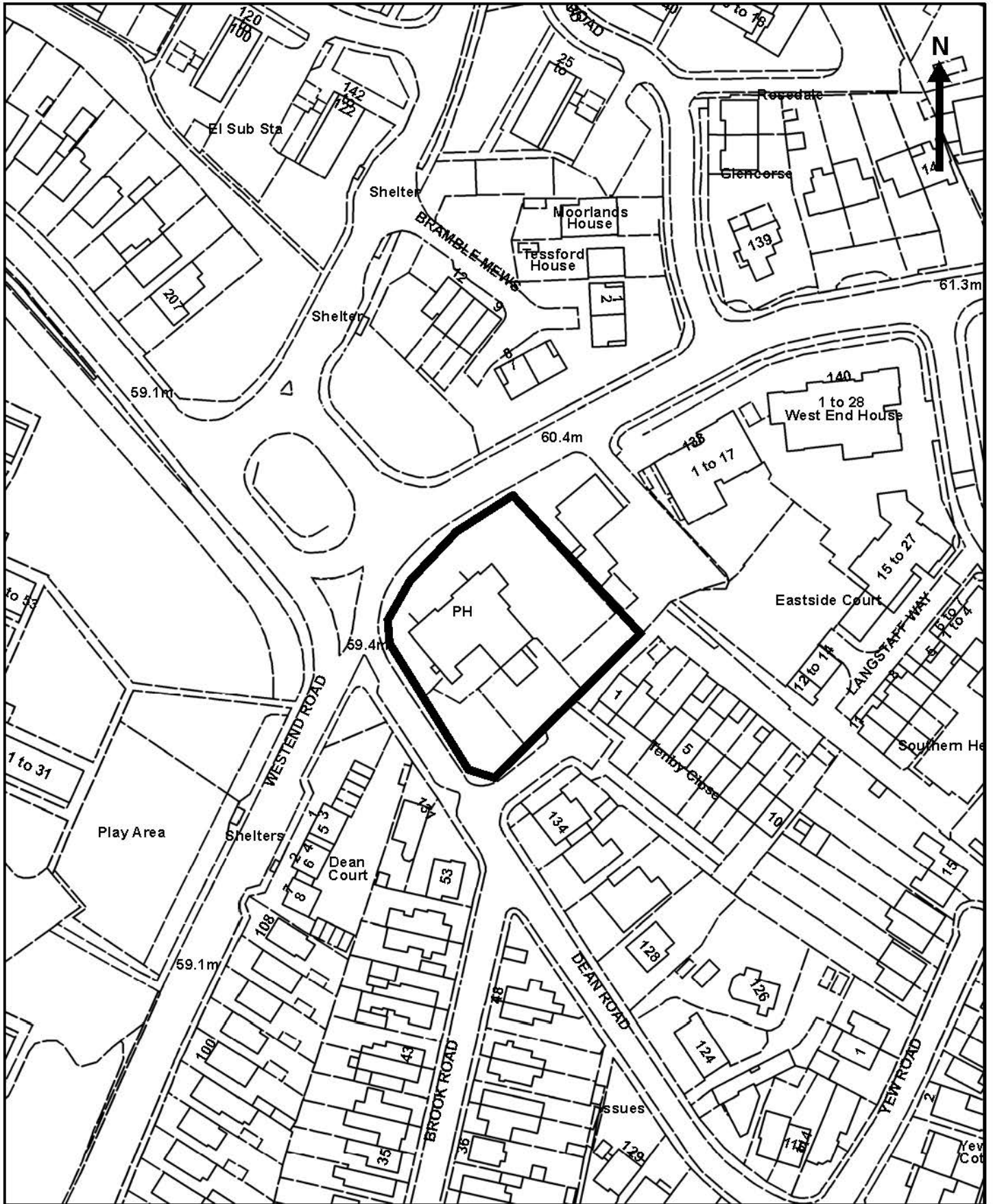
1. Appeals **must be registered within six months of the date of this notice** and be made using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or do it online at <https://acp.planninginspectorate.gov.uk/>
2. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
3. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
4. If permission to develop land is refused, whether by the Local Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Local Planning Authority a purchase notice requiring that the Authority purchase their interest in the land in accordance with Part IV of the Town and Country Planning Act 1990.
5. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
6. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
7. The applicant is recommended to retain this form with the title deeds of the property.
8. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Please address any correspondence in connection with this form quoting the application number to:  
**Development Management, Southampton City Council, Lower Ground Floor, Civic Centre, SOUTHAMPTON, SO14 7LS.**

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# Agenda Item 5 18/00347/FUL

Appendix 7



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**Planning and Rights of Way Panel 24th April 2018**  
**Planning Application Report of the Service Lead – Infrastructure, Planning and Development.**

<b>Application address:</b> Millbrook Trading Estate, First Avenue, Southampton			
<b>Proposed development:</b> Environmental and highway improvements including additional parking to existing verges, new parking layout to existing car park and new landscape (renewal of expired planning consent ref: 13/01962/FUL)  <i>Note: The scheme is identical to the 13/01962/FUL scheme approved in April 2014.</i>			
<b>Application number</b>	17/02378/FUL	<b>Application type</b>	Minor
<b>Case officer</b>	Mathew Pidgeon	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	26.01.2018	<b>Ward</b>	Redbridge
<b>Reason for Panel Referral:</b>	More than five letters of objection have been received.	<b>Ward Councillors</b>	Cllr Pope Cllr McEwing Cllr Whitbread

<b>Applicant:</b> Frobisher (Millbrook) TC Ltd	<b>Agent:</b> Jackson Planning Ltd
<b>Recommendation Summary</b>	Conditional approval
<b>Community Infrastructure Levy Liable</b>	<b>No</b>

**Reason for granting Planning Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters as set out in the report to the Planning and Rights of Way Panel on 24<sup>th</sup> April 2018, which attached significant weight in its considerations to the previously consented scheme (LPA ref: 13/01962/FUL). The scheme is therefore judged to be in accordance with the development plan as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP7 and SDP9 of the City of Southampton Local Plan Review (as amended 2015) and policies CS13 and CS17 of the Local Development Framework Core Strategy Development Plan Document (as amended 2015) as supported by the Council's Cycling Strategy (2017-2027) and the National Planning Policy Framework (NPPF).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Planning Permission 13/01962/FUL

## **Background**

Planning permission was granted under delegated authority in April 2014 for the same project under LPA ref: 13/01962/FUL. The planning permission is attached at **Appendix 2** but has since lapsed without being implemented. The current application seeks to gain permission, again, for the same development as previously approved. Material changes in circumstances, namely the adoption and implementation of the Council's Cycling Strategy (2017-2027) in July 2017, have led to further discussions with the applicants on how best to integrate their scheme into the wider cycling network.

The application has attracted more than 5 objections, notably from cycling campaigners, and a Planning Panel decision is now required regardless of the earlier permission. An update will be given at the meeting as to any further third party correspondence.

### **1 The site and its context**

- 1.1 The application site forms part of an existing car park on the Millbrook Trading Estate. This Estate, was sold by the Council, and suffers from existing parking stress as there is insufficient space to meet current demand. The site is directly next to another car park that has permission for environmental improvement works similar to the scheme proposed (and previously approved).

### **2 Proposal**

- 2.1 Currently the site supports 65 car parking spaces, with the implementation of the proposal an additional 34 car parking spaces would be formed resulting in a total of 99. To facilitate this part of the existing highways verge (currently taking the form of a turfed raised bund) would be removed along with 5 trees. 14 new trees are proposed for planting to compensate for this loss.

### **3 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1** and are supported in this instance by the Council's Cycling Strategy (2017-2027).
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

### **4 Relevant Planning History**

- 4.1 In April 2014 planning permission was granted for the environmental and highway improvements including additional parking to existing verges, re-alignment of junctions, new parking layout to existing car parking and new landscape planting (13/01962/FUL) – *This site*.
- 4.2 In August 2015 planning permission was also granted for environmental improvements, including new parking and circulation layout to existing car park and new landscape planting, within the neighbouring site to the north west (15/01080/FUL) – *Neighbouring land within the same estate*.

## **5 Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (08.12.2017). At the time of writing the report **6 representations** have been received (with 1 withdrawn at the time of writing). Some of the representations are from members of local cycling campaigning groups. The following is a summary of the points raised:

5.2 **Downgrading of the important but already inadequate cycle route between Southampton and the West (National Cycle Route 236).**

RESPONSE: An alternative route for cyclists has been provided, although it is acknowledged that the route is inferior to the proposed cycle freeway. The Council's Highways team are refining their scheme in consultation with proposed users.

5.3 **Car park expansion will include land that is earmarked by the Council to form part of the Western Approach cycle freeway to provide a safe route between Southampton and Totton and the New Forest.**

RESPONSE: Agreed, although suitable alternatives are possible.

5.4 **Removal the part of the cycle route between Millbrook roundabout, across a double toucan crossing and then westwards to Second Avenue. No equally safe or convenient alternative is suggested.**

RESPONSE: There is an alternative to the north of the car park however this is a detour for cyclists when compared to the current route used. The Council's Highways team are refining their scheme in consultation with proposed users.

5.6 **Removal of the link from the double toucan crossing to Second Avenue will result in an inconvenient and significant detour for cyclists.**

RESPONSE: Agreed. The Council's Highways team are refining their scheme in consultation with proposed users.

5.7 **Changing the priority connecting Second Ave to Redbridge Rd will make this junction more dangerous for users of Second Avenue, especially cyclists.**

RESPONSE: There is an alternative route for cyclists proposed and thus cyclists should not be using the route across the junction with revised priority.

5.8 **Developers may follow this planning application with another for a stopping-up order. This has been unsuccessful in the past, but if the current planning application is successful it opens the way for the stopping-up order to be more positively considered. Stopping-up would have a negative impact on the plans for the Western Approach cycle freeway.**

RESPONSE: Stopping up potential is not a material planning consideration as it is covered by separate legislation.

5.9 **With the forthcoming implementation of the Clean Air Zone, we need to promote cycling as an antidote to vehicular pollution.**

RESPONSE: Promotion of cycling is part of the Councils Transport and Development Strategy as detailed in the Local Transport Plan and Development Plan.

## **Consultation Responses**

### **5.6 SCC Highways – No objection**

*After initially objecting to the current application following discussions with the applicant* SCC Highways are now confident that an alternate scheme to provide a cycle freeway on Second Avenue is viable, which would be beneficial to both the applicant and SCC. In addition SCC Highways have the power to build a cycle track adjacent to the highway (as per Highways Act 1980) and as such there will be an option to provide the cycle freeway in this location irrespective of the outcome of this application.

### **5.7 SCC Design Manager - No objection apply relevant conditions from previous scheme.**

### **5.8 SCC Trees – No objection**

On the plan 428-06e there a no. of trees marked for removal, referring back to the original planning app for this site (13/01962/ful) and the associated Arb report (Ref: 12278-BT3) and indicated on this plan, there are five trees in the centre of the proposed site and one on the West side of the access road. The five trees in the centre have been recently felled and no objections are raised to the removal of the tree on the Western side, to facilitate access around the corner for high vehicles. The trees need to be replaced on a favourable basis of 2 for 1 in the surrounding landscape to ensure a continued and varied tree cover for this site.

### **5.9 Proposed work to the North of the carpark is likely to impact on the grass bank and there is potential for this to effect the tree roots from trees on top of the bank. This is addressed in the original Arb report (Ref: 12278-BT3) and marked as a precautionary area within the RPAs where special precautions are needed to upgrade existing surfacing or install new surfacing. In summary if planning permission is granted apply recommended conditions.**

## **6 Planning Consideration Key Issues**

### **6.1 The key issues for consideration during the determination of this planning application are:**

- Principle of development;
- Trees and amenity; and
- Highways.

### **6.2 Principle of Development**

#### **6.2.1 There has not been a significant change in national or local planning policies in relation to this site since the previous application was submitted and approved.**

#### **6.2.2 The principle of creating an additional 34 car parking spaces is supported as it will, subject to the works not prejudicing safe access by alternative transport modes, improve the viability of the trading estate**

### **6.3 Trees and amenity**

#### **6.3.1 The plan proposes the removal of a limited number of trees with replacement planting to compensate for trees lost. An arboricultural impact appraisal report and plan prepared and accompanies the planning application. The removal of the grassed bund has been included in the scheme despite the Landscape officer's previous concerns for the wider scheme. It is considered that the bund has very limited visual impact (especially for this short stretch) and is an unattractive and poorly maintained feature of the site as a whole. It is also considered to have very little value in terms of biodiversity or drainage capabilities and it is on the line of**



significant underground services which prevent the planting of a substantial tree screen along the car park edge. The parking area remains well screened from principle wider views by the mature tree belt.

## 6.4 Highways

- 6.4.1 The key driver for the project is to secure additional parking for the Trading Estate, which was built in the 1950s and is not designed to accommodate the level of parking currently required. There are no highway safety concerns of improving the site's existing parking arrangements. The use of tandem parking on a trading estate is acceptable, albeit inconvenient for those users that get blocked in. However, the spaces will be allocated to employees within the same company making any problems a management issue.
- 6.4.2 The applicants are aware that they will require a Traffic Regulation Order (TRO) in order to undertake the kerb and priority changes. This is a separate proves from Planning and should not influence the outcome of this application.

## 7 Summary

- 7.1 Since the previous approval the Council have secured funding for improved east-west cycle linkage along Second Avenue. Whilst originally objecting to the scheme the Highways Team are now satisfied that the cycle freeway can still be delivered if this proposed, and previously approved, development for additional car parking is granted. As the delivery of the cycle freeway is not therefore dependant on whether or not the implementation of this permission goes ahead Highways Officers are no longer opposed to the approval of this scheme.
- 7.2 It is also noteworthy that the Council is currently working with the applicant to find a mutually beneficial solution to the layout of Second Avenue (involving some of the application site) which will enable the applicant to gain the same economic value from the site as previously approved (through provision of car parking numbers on the site) along with the provision of a cycle route on the northern side of Second Avenue which is the preferred option. It is anticipated that this work will satisfy the current third party objections to the application and an update will be given at the meeting if this is the case.

## 8 Conclusion

- 8.1 The positive aspects of the scheme are not judged to be outweighed by the negative and as such the scheme is recommended for conditional approval.

**Local Government (Access to Information) Act 1985**

**Documents used in the preparation of this report Background Papers**

1 (a) (b) (c) (d), 2 (b) (c) (d), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

**MP for 24/04/2018 PROW Panel**

**PLANNING CONDITIONS to include:**

**01.APPROVAL CONDITION - Full Permission Timing Condition - Physical works**

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

**02.APPROVAL CONDITION - Landscaping & Planting**

Prior to the first use of the car park hereby approved the agreed landscaping and tree planting scheme shall be provided in full, or in accordance with an alternative timescale that shall have been agreed with the Local Planning Authority prior to the commencement of development. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision. As agreed within the submission and decision associated with application 16/02049/DIS the landscaping and tree planting must comply with the following details and listed plans:

1. A root barrier is used adjacent to the highway where three Acer Campestre trees are being proposed as part of the landscaping scheme. This is to ensure that the roots of these trees would not extend into the proposed 4.5m width easement area which the Council seek to use to provide a cycle route in the future.
2. The proposed planting of Lime along the southern boundary with Second Avenue should be amended to an alternate mix of a long lived species and a medium lived species. The council's tree team suggest Quercus Palustris Helmond and Sorbus torminalis as this will give a good species diversity and reduce the numerous associated problems with planting limes in close proximity to car parking (Honeydew Etc.)
3. The proposed tree planting must include a tree supporting system taking into account the new ground and trees must be irrigated accordingly to ensure their successful establishment.
  - o 428.D01, Post and mesh fence.
  - o 428.18 rev C, Plot 1881 (with boundaries) soft works landscape plan.
  - o 428-D02 (Prev.428-09) rev C, Tree planting details.
  - o 428-D03 rev A, Tree pit detail.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The approved parking layout shall be marked out in full prior to its first use in accordance with the agreed scheme, or in accordance with an alternative timescale that shall have been agreed with the Local Planning Authority prior to the commencement of development. The agreed parking scheme shall be retained as agreed.

Reason: In the interests of highway safety so as to ensure that cyclists have the opportunity at some point in the future - as designs and resources permit - to use an alternative route to Second Avenue as agreed by the applicant's agent by email dated 11th August 2015.

### **03.APPROVAL CONDITION - Tree Protection**

The development shall take place in accordance with the tree protection details provided by the updated Barrell Tree Consultancy Arboricultural Impact Appraisal and Method Statement dated 10th July 2015.

Reason: In the interests of visual amenity and the longevity of those trees to be retained as part of the application hereby approved.

### **04.APPROVAL CONDITION - no storage under tree canopy [Performance Condition]**

No storage of goods including building materials, machinery and soil, shall take place underneath the crown spread of the trees to be retained on the site. There will be no change in soil levels or routing of services through tree protection zones or within canopy spreads, whichever is greater. There will be no fires on site. There will be no discharge of chemical substances including petrol, diesel and cement mixings within the tree protection zones or within canopy spreads, whichever is greater.

Reason: To preserve the said trees in the interests of the visual amenities and character of the locality.

### **05.APPROVAL CONDITION - Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority as required by the above planning conditions.

Reason: For the avoidance of doubt and in the interests of proper planning.

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17/02378/FUL

## **POLICY CONTEXT**

### Core Strategy - (January 2010)

CS13 Fundamentals of Design

CS18 Transport: Reduce – Manage – Invest

### City of Southampton Local Plan Review – (March 2006)

SDP1 Quality of Development

### Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Cycling Southampton Strategy 2017 – 2027.

### Other Relevant Guidance

The National Planning Policy Framework 2012

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## DETERMINATION OF APPLICATION

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (Development Management Procedure) (England) Order 2010

Jackson Planning Ltd  
Mrs Lisa Jackson  
Fox Barn  
Hatchet Hill  
Lower Chute  
Andover  
SP11 9DU

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

### FULL APPLICATION - CONDITIONAL APPROVAL

**Proposal:** Environmental and highway improvements including additional parking to existing verges, new parking layout to existing car park and new landscape planting - application amended following validation to remove changes to cycleway.

**Site Address:** Millbrook Trading Estate, Second Avenue, Southampton

**Application No:** 13/01962/FUL

Subject to the following conditions.

#### 01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

#### 02. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the amended plan 428-06 Rev E - Received 14th March 2014 (with no changes to the existing cycle way as confirmed by Lisa Jackson's email dated 18th March 2014). No more than 86 car parking spaces shall be provided and all spaces shall be marked out prior to first use of this revised layout unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.

**03. APPROVAL CONDITION - Landscaping and Tree Works - Pre-commencement**

Prior to the commencement of development, and notwithstanding the Indigo Supplementary Landscape Information (November 2013 - Rev A), the applicant shall submit for written approval a revised landscape plan showing planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate and a landscape management scheme.

Any trees to be felled pursuant to this decision notice will be replaced with species of trees to be agreed in writing with the Local Planning Authority at a ratio of two replacement trees for every single tree removed. The trees will be planted within the site or at a place agreed in writing with the Local Planning Authority.

The Developer shall be responsible for any landscaping replacements for a period of 5 years from the date of planting. The agreed landscaping shall be carried out within the next planting season (between November and March) following the completion of the revised parking layout or prior to the first use of the parking - whichever is sooner. If within a period of 5 years from the date of planting the trees and associated soft landscaping die, fail to establish, are removed or become damaged or diseased they will be replaced by the site owner/site developer or person responsible for the upkeep of the land in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The development shall be implemented in accordance with the agreed details.

**REASON:**

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

**04. APPROVAL CONDITION - Tree Protection - Pre-commencement**

Notwithstanding the tree protection works shown on the Protection Plan - Barrell Ref: 12278-BT3 all trees to be retained pursuant to any other condition of this decision notice shall be fully safeguarded during the course of all site works including preparation, demolition, excavation, construction and building operations. No operation in connection with the development hereby permitted shall commence on site until the tree protection as agreed by the Local Planning Authority has been erected. Details of the specification and position of all protective fencing shall be indicated on a site plan and agreed with the Local Planning Authority in writing before any site works commence. The fencing shall be maintained in the agreed position until the building works are completed, or until such other time that may be agreed in writing by the Local Planning Authority following which it shall be removed from the site.

**Reason:**

To ensure that trees to be retained will be adequately protected from damage throughout the construction period and to ensure that the amended car park layout, which supersedes the Barrell Report, is correctly planned for.

**05. APPROVAL CONDITION - no storage under tree canopy [Performance Condition]**

No storage of goods including building materials, machinery and soil, shall take place underneath the crown spread of the trees to be retained on the site. There will be no change in soil levels or routing of services through tree protection zones or within canopy spreads, whichever is greater. There will be no fires on site. There will be no discharge of chemical substances including petrol, diesel and cement mixings within the tree protection zones or within canopy spreads, whichever is greater.



**Reason:**

To preserve the said trees in the interests of the visual amenities and character of the locality.

**06. APPROVAL CONDITION - Parking Barrier (Performance Condition)**

There shall be no reversing out onto Second Avenue from vehicles using the 16 parking spaces shown end on to Second Avenue. The low level parking barriers shown on amended plan Rev E - Received 14th March 2014 - shall be provided prior to first use of revised parking layout and retained thereafter to a height of 300mm above the finished level of the parking space to which it relates.

**REASON:**

In the interests of highway safety following the receipt of the amended plans

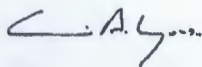
**Reason for granting Planning Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

Policies - SDP1, SDP4, SDP5, SDP7 and SDP9 of the City of Southampton Local Plan Review (March 2006) and policies CS6, CS7, CS13 and CS19 of the Local Development Framework Core Strategy Development Plan Document (January 2010) as supported by the Council's Car Parking Standards SPD (2011)

**Traffic Regulation Order Informative**

The applicant is advised that the proposed works to the Second Avenue junction will require further approvals through a Traffic Regulation Order. Further guidance and advice can be obtained from the Council's Highways - Balfour Beatty Living Places (Traffic Management).



**Chris Lyons**  
**Planning & Development Manager**



2 April 2014

If you have any further enquiries please contact:  
**Stephen Harrison**

**IMPORTANT NOTE TO APPLICANT**

This decision has been made in accordance with the submitted application details and supporting documents and the development should be implemented in respect of the following plans and drawings.

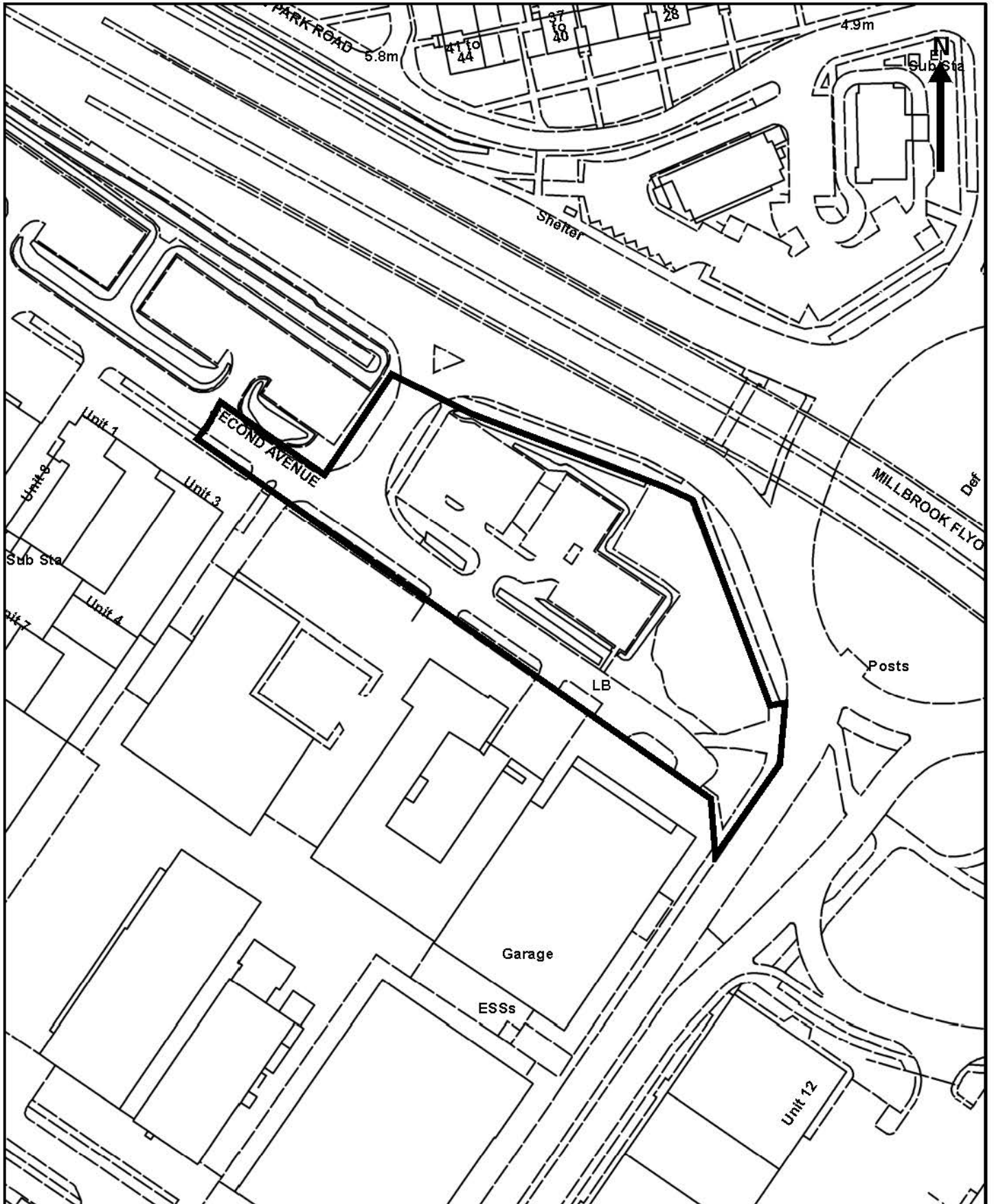
Drawing No:	Version:	Description:	Date Received:	Status:
428-06	E	Site Plan	14.03.2014	Approved

## NOTES

1. This permission relates to Planning Control only. Approval under the Building Regulations may also be required and should you be in any doubt about this, please contact Building Control Services, Tel. 023 8083 2558. Any other necessary consent must be obtained from the appropriate authority. Special attention is drawn to the fact that this permission does not relate to the display of advertisements and separate consent is required under the Town and Country Planning (Control of Advertisements) England Regulations 2007. Development affecting buildings of special Architectural or Historical interest is also subject of separate Listed Building Consent. Any queries should be made to Development Control Service as indicated below.
2. This permission has been granted on the basis of all the information submitted by the applicant shown on the plans accompanying the application. Any material misstatement or wrong information may invalidate the permission.
3. If the applicant is aggrieved by the decision of the Local Planning Authority to approve the proposed development, subject to conditions, they may appeal to the Secretary of State in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of decision. Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 5000) or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
4. The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
5. If permission to develop land is granted subject to conditions, whether by the Local Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council a purchase notice requiring the Council to purchase their interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
7. Attention is drawn to the provisions of Section 12 of the Hampshire Act 1983 relating to access for the Fire Brigade, and you are advised to contact Building Control Services as set out in Note 1.
8. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2001 Design of buildings and their approaches to meet the needs of disabled people code of practice.
9. The applicant is recommended to retain this form with the title deeds of the property.
10. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012)  
Please address any correspondence in connection with this form quoting the application number to: **Development Control Service, Southampton City Council, Civic Centre SOUTHAMPTON. SO14 7LS**

Agenda Item 6  
**17/02378/FUL**

Appendix B



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# Agenda Item 7

**Planning and Rights of Way Panel 24 April 2018**  
**Planning Application Report of the Service Lead – Infrastructure, Planning and Development**

<b>Application address:</b> 4 Primrose Road, Southampton			
<b>Proposed development:</b> Erection of part single storey, part two-storey rear extension (retrospective)			
<b>Application number</b>	17/01669/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Amber Trueman	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	21.11.2017	<b>Ward</b>	Bassett
<b>Reason for Panel Referral:</b>	Request by Ward Member	<b>Ward Councillors:</b>	Cllr B Harris Cllr L Harris Cllr J Hannides
<b>Referred to Panel by:</b>	Cllr B Harris	<b>Reason:</b>	Overbearing, out of scale, out of character for the area and non-compliance with the conditions of application ref. 16/00346/FUL

<b>Applicant:</b> Mr Sihota	<b>Agent:</b> Sanders Design Services Ltd
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<b>Recommendation Summary</b>	<b>Conditionally Approve</b>
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP7, SDP9 and H4 of the City of Southampton Local Plan Review (Amended 2015) and CS13 CS16 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015), the Residential Design Guide (September 2006) and the relevant sections of the HMO Supplementary Planning Document (amended May 2016).

<b>Appendix attached</b>			
1	Development Plan Policies	2	Panel report (20/02/18)

## **Recommendation in Full**

### **Conditionally approve**

#### **1. Application Site Visit & Background**

- 1.1 The application was originally presented to Panel on the 20<sup>th</sup> February 2018 with a recommendation for conditional approval (the original report is attached as Appendix 2). The decision was made at this meeting to defer the decision in order to allow the Panel to undertake a site visit to view the property themselves from the rear gardens of the application site and the neighbouring property at 2 Primrose Road.
- 1.2 This site visit was undertaken on the morning of Wednesday 7<sup>th</sup> March 2018. As such, the item has come back to Panel for consideration and determination. The officer's recommendation has not changed although an additional condition is proposed to resolve the render and gutter to the extension's southern elevation.

#### **2. Conclusion**

- 2.1 Following the accompanied site visit officers are of the opinion that, whilst the physical form of the extension and its impact on the neighbour are both acceptable, the applicant should replace the render and gutter to the eaves line on the southern elevation with matching materials. As the works are retrospective a 3 month timescale for completion of these works is recommended.
- 2.2 The Panel will note that the request for a section demonstrating the need for an increase in building height has been declined by the applicant. Officers feel that a decision can be made without this information, particularly following the site visit.

### **Local Government (Access to Information) Act 1985**

#### **Documents used in the preparation of this report Background Papers**

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f) and 6(a)

**AMBERT for 24/04/18 PROW Panel**

## **PLANNING CONDITIONS**

### **01. Number of occupiers**

The number of occupiers at the property in connection with the development hereby permitted shall not exceed 5 persons.

Reason: In the interests of protecting the residential amenity of local residents from intensification of use and define the consent for avoidance of doubt.

### **02. Retention of communal spaces**

The communal rooms as shown on the plans hereby approved (namely, the kitchen, lounge, bathroom and shower room) shall be retained for their purposes whilst the property is in use as an HMO.

Reason: In the interests of the living conditions of the occupiers of the HMO.

### **03. Materials to match (Performance Condition)**

Within 3 months from the date of this consent, the materials and finishes used for the external walls, windows (including recesses), drainage goods and roof on the side (south facing) elevation shall be amended so as to match in all respects the type, size, colour, texture, form, composition, manufacture and finish of those on the existing building.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of the visual amenities of the locality and to endeavour to achieve a building of better visual quality and satisfactory visual relationship of the new development to the existing.

### **04. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

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**Application 17/01669/FUL**

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

City of Southampton Local Plan Review – (as amended 2015)

SDP1 Quality of Development

SDP7 Urban Design Context

SDP9 Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Houses in Multiple Occupation SPD (HMO SPD, 2016)

The adopted Bassett Neighbourhood Plan (2016)

Other Relevant Guidance

The National Planning Policy Framework (2012)

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# Agenda Item 7

Appendix 2

## Planning and Rights of Way Panel 20<sup>th</sup> February 2018 Planning Application Report of the Service Lead – Infrastructure, Planning and Development

<b>Application address:</b> 4 Primrose Road, Southampton			
<b>Proposed development:</b> Erection of part single storey, part two-storey rear extension (retrospective)			
<b>Application number</b>	17/01669/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Amber Trueman	<b>Public speaking time</b>	5 minutes
<b>Last date for determination:</b>	21.11.2017 ETA	<b>Ward</b>	Bassett
<b>Reason for Panel Referral:</b>	Request by Ward Member	<b>Ward Councillors:</b>	Cllr B Harris Cllr L Harris Cllr J Hannides
<b>Referred to Panel by:</b>	Cllr B Harris	<b>Reason:</b>	Overbearing, out of scale, out of character for the area and non-compliance with the conditions of application ref. 16/00346/FUL

<b>Applicant:</b> Mr Sihota	<b>Agent:</b> Sanders Design Services Ltd
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<b>Recommendation Summary</b>	<b>Conditionally approve</b>
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012). Policies - SDP1, SDP7, SDP9 and H4 of the City of Southampton Local Plan Review (Amended 2015) and CS13 CS16 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015), the Residential Design Guide (September 2006) and the relevant sections of the HMO Supplementary Planning Document (amended May 2016).

<b>Appendix attached</b>			
1	Development Plan Policies		

## Recommendation in Full

### Conditionally approve

#### 1. The site and its context

- 1.1 The application site is a two-storey, semi-detached dwellinghouse located on the eastern side of Primrose Road. At present, the property is in lawful use as a 5-bed C4 House in Multiple Occupation (HMO).
- 1.2 The property currently comprises a front-facing bedroom, lounge/kitchen, shower room and rear-facing bedroom at ground floor level as well as 3 bedrooms and a bathroom at first floor level. The large lounge/kitchen space, shower room, ground floor rear-facing bedroom and the enlargement of one of the first floor rear-facing bedrooms have all been facilitated by the erection of a part single-storey part two-storey rear extension.
- 1.3 The property is located in a residential area characterised by two-storey, semi-detached houses, primarily with hipped roofs. The property also benefits from off-road parking for one car on the forecourt.

#### 2. Proposal and Planning Background

- 2.1 On 26/09/2016 permission was granted for a part single-storey, part two-storey rear extension to the property which would also enable the number of occupants to 5 (Ref. 16/00346/FUL). The single storey section of the proposal was not built to the approved plans and now has a 0.7m increased eaves height, smaller ground floor rear-facing windows and the rear door to the garden has been relocated. In addition, due to the colour of the guttering and render, the extension does not meet condition 4 of the consent which requires matching materials to the original dwelling. As such, additional planning consent is now required for the development to be deemed lawful and the changes to be regularised.
- 2.2 In light of the above, the current application seeks retrospective planning approval for the part single-storey, part two-storey rear extension as built; although the Panel will note that the previous approval and the extent of those works form a significant material consideration. As such, only the changes between that approved, and then built are, are relevant to the Panel's deliberations.
- 2.3 It is noted that the established use of the property is a 5-bed HMO. The current proposal does not alter this use and, therefore, the use of the property should not be considered further. In addition, due to the previous grant of application reference 16/00346/FUL, the only considerations to be made will be whether the change of materials, increased eaves height or altered windows and door of the single storey section present any visually harm or detrimental impact to residential amenity.

### **3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27<sup>th</sup> March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

### **4. Relevant Planning History**

- 4.1 On 26<sup>th</sup> September 2016 permission was granted for a part single-storey, part two-storey rear extension to facilitate the relocation the kitchen to create an additional bedroom to the rear, a new shower room off of the lobby and enlargement of one of the existing first floor rear facing bedrooms (Ref. 16/00346/FUL).
- 4.2 As aforementioned, the approved scheme was not built out as per the approved plans therefore the extension now requires further planning permission to be granted in order for the development to be deemed lawful. As such, the current application is seeking full planning approval for the part single-storey, part two-storey extension as completed.

### **5. Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners. At the time of writing the report **3 representations** have been received from surrounding residents including a Panel referral request from ward councillor B Harris. The following is a summary of the points raised:
- 5.2 **The roof that has been built has a pitch of approximately 4 degrees, essentially a flat roof from an architectural standpoint, and looks completely out of place with the pitch of the rest of the extension and the rest of the house.**

#### Response:

It is accepted that the roof of the single storey part of the built extension is close to flat. However, it is not unusual for flat-roofed single storey rear extensions to be built providing they are of an appropriate size and do not present harm to neighbouring residents. Considering its modest depth and that 6 Primrose Road already has a rear extension of a similar depth, the single storey part of the development is judged to be acceptable and unlikely to cause any significant harm to neighbouring residents. Moreover, though the design is not as favourable as the previously approved, the slight alteration to the eaves height and roof of the single storey section of the extension is thought to have a limited impact to the character of the host property and is therefore permissible in this situation.

- 5.3 **I also question whether the relevant building standards have been met as many tiles have a minimum pitch requirement greater than 10 degrees to guarantee water tightness.**

Response:

This comment relates specifically to building regulations and is therefore a query for Building Control rather than the Planning Department.

- 5.4 **The approved plans showed some attempt at respecting the scale of the existing house and limiting the impact on the outlook from my kitchen and upstairs bedroom; however, what has been built does not respect either. From my kitchen, which Section 2.2.12 of the Residential Design Guide classifies as a habitable room, and upstairs bedroom I can see this large, imposing and out of scale structure prominently in my sight line.**

Response:

With consideration towards the previously application (Ref. 16/00346/FUL) it is judged that the part single storey, part two storey extension as built is not significantly larger than what has already been approved. It is acknowledged that the eaves are higher and the pitch of the roof is far shallower, however the overall mass gained from these alterations is not considered to present detrimental harm above what was previously approved.

- 5.5 **With the extension as built, my kitchen feels significantly darker, as the view of clear sky has been significantly decreased, and my small (corner plot) rear garden feels hemmed in.**

Response:

The current application is only proposing minor alterations to the approved scheme (Ref. 16/00346/FUL), namely the materials, increased eaves and changes to the rear-facing windows and doors at ground floor level; neither or which have a visually harmful impact to neighbouring amenity. In light of this, the 0.7m increased eaves at ground floor is not judged to present significant harm above what has already been approved. The alteration is therefore deemed acceptable.

- 5.6 **The eaves height is greater than three metres and when stood in my rear garden the extension is overbearing.**

Response:

The current application is only considering whether the alterations to the approved scheme (Ref. 16/00346/FUL), namely the materials, increased eaves and changes to the rear-facing windows and doors at ground floor level have a visually harmful impact or harmful impact to neighbouring amenity. Due to its modest 1m depth, the 0.7m increase to the height of the eaves at single storey level, above what has already been approved, is not judged to have a significantly harmful impact on the neighbouring properties. The alteration is therefore deemed acceptable.

- 5.7 **...as the eaves height is greater than the existing extension present at Number 6 Primrose Road, this extension appears to tower above it – the extension as build clearly does not take into account the character of the area.**

Response:

With reference the previously approved scheme (Ref. 16/00346/FUL), the extension is not increasing in depth, the only alteration to impact the neighbours will be the 0.7m increase in the single-storey eaves height. Though the design is not as favourable as the previously approved, the alteration is not judged to present any significant harm to neighbouring amenity over and above what has already been approved.

- 5.8 **The development does not meet Section 2.3.2 of the Residential Design Guide as the increased single-story height makes the property look lopsided. From the plans, the Rear View demonstrates how jarring the increased eaves height and decreased roof pitch is by making the property look bottom heavy with a “squashed” top.**

Response:

See previous response

- 5.9 **The materials used fail to match the existing materials – black guttering has been used instead of white/grey and grey render has been used for the pebbledash instead of brown.**

Response:

It is accepted that the materials used in the construction of the extension do not identically match the original property. However, the colour of the guttering is thought to have a minor impact to the appearance of the overall property and the walls have been covered in pebble dash to match the original property. Though the colour of the render does not match exactly it is considered to have a close likeness to the existing and therefore does not present significant visual harm or harm to the residential amenity of the occupants or neighbouring residents.

- 5.10 **... conditions for approval of application 16/00346/FUL were laid out ...concerning boundary treatment and additional licensing scheme approval of standards appropriate to an increase from 4 to 5 tenants at the completion of the new construction. There is nothing to show that the owner acted on either of these conditions...**

Response:

The boundary treatment as specified within the previous approval has been installed and is detailed on the plans for the current application. The boundary treatment between the host property and 2 Primrose road is 1.8m close board fencing. With regards to additional licensing, this was not conditioned under the previous approval and is a separate matter for the Council's HMO Licensing team. The current application is not considering the use of the property.

## 6. **Planning Consideration Key Issues**

- 6.1 The determining issues for this application relate to whether the alterations to the approved scheme (Ref. 16/00346/FUL), namely the 0.7m increase of the single-storey eaves height, the change of materials, the reduction in size of the ground floor rear-facing windows and the relocation of the ground floor rear door, present any visual harm or harm to the residential amenity of the occupants or to neighbouring residents.
- 6.2 Principle of Development
- 6.3 It is firstly noted that the established use of the property is a small HMO (class C4) for up to 5 residents. The development does not make any internal changes beyond what was previously approved under application reference 16/00346/FUL and does not propose any change to the number of occupants. As such the use of the property is not being considered and the principle of the alterations to the previously approved extension are acceptable.
- 6.4 Impact on Residential Amenity
- 6.5 With regard to the increase of the eaves height above that approved in application ref. 16/00346/FUL, the additional 0.7m at single storey level is acknowledged to be a noticeable difference however, from the side of 2 Primrose road the section of the extension to increase only spans 1m and is therefore judged to have a minor impact to the residential amenity of the occupants of 2 Primrose Road. In terms of the impact to 6 Primrose Road, the extension has not increased in depth and already extends to a similar depth as that at the adjoining property. As such, the alteration to the eaves height will not be clearly seen unless in the rear garden of number 6, and it will not present any excessive overshadowing, particularly due to the north-east facing gardens.
- 6.6 It is also noted that the alterations to the windows and door will not be clearly visible from the neighbouring properties and are therefore judged to have a negligible impact to residential amenity. In terms of the impact to the amenity of the occupants of the host dwelling, the windows are still in proportion with those displayed on the original dwelling and will adequately serve the rooms in which they are situated. As such the amenity of the occupants will not be harmed as a result of the development.
- 6.7 In terms of the materials use, it is accepted that they do not identically match the original property. However, the colour of the guttering (black rather than the original white) is thought to have a minor impact to the appearance of the overall property. Similarly, though the colour of the render does not match exactly the pebble dash finish has been respected and overall the extension is considered to have a close likeness to the original property. As such, the materials and finish are not considered to present significant visual harm or harm to the residential amenity of the occupants or neighbouring residents.
- 6.8 Visual Impact



- 6.9 The increase of the height of the single storey eaves above that previously approved under application reference 16/00346/FUL is 0.7m. Considering the fact the extension is located to the rear of the property, this alteration is judged to have little visual impact in the streetscene. In addition to this, the section extended which can be viewed from number 2 Primrose Road it over 4m away from the rear of the dwelling and only spans 1m in depth when viewed from this side. From the side of 6 Primrose Road, who also have an extension of a similar depth, the extension is only clearly visible when stood in the rear garden facing back towards the property therefore the increase in eaves height will not present any significant impact. Consequently, the additional 0.7m eaves height of the single-storey section is not judged to be visually intrusive to the neighbouring residents.
- 6.10 As aforementioned, the changed materials, namely the black guttering and lighter coloured render are broadly respectful of the original dwelling and therefore will have little visual impact in the area.
- 6.11 Lastly, the reduction in the size of the rear facing windows and the relocation of the rear door will only be visible from the rear of the property. Due to this and that the new windows still respect the proportions of those featured on the original dwelling, the visual impact of the change will be negligible.

## **7. Summary**

- 7.1 Despite the alterations to the previously approved scheme, the development is considered to have an acceptable impact in terms of its visual impact and the impact to residential amenity. To elaborate, though the design as altered is considered to be less favourable, the 0.7m increase in the eaves height of the single storey section, is minor and will not present significant harm in terms of its visual impact or the impact to residential amenity above and beyond what was already approved. In addition, though the materials used differ slightly from the original property, they are not considered to present any substantial harm to the host property or be visually harmful to others, particularly as the extension is located to the rear of the property and is not clearly visible in the streetscene. Finally, the new ground floor windows clearly match the proportions of those on the original property and are therefore deemed to be acceptable. Moreover, the relocation of the rear door has a negligible impact on the overall appearance of the extension.
- 7.2 Consequently, the scheme is judged to be acceptable and it is, therefore, recommended for approval.

## **8. Conclusion**

- 8.1 Conditional planning approval should be given.

1(a), 1(b), 1(c), 1(d), 2(b), 2(d), 4(f) and 6(a)

**AMBERT for 20/02/18 PROW Panel**

**PLANNING CONDITIONS**

**01. Number of occupiers**

The number of occupiers at the property in connection with the development hereby permitted shall not exceed 5 persons.

Reason: In the interests of protecting the residential amenity of local residents from intensification of use and define the consent for avoidance of doubt.

**02. Retention of communal spaces**

The communal rooms as shown on the plans hereby approved (namely, the kitchen, lounge, bathroom and shower room) shall be retained for their purposes whilst the property is in use as an HMO.

Reason: In the interests of the living conditions of the occupiers of the HMO.

**03. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

**Application 17/01669/FUL**

**APPENDIX 1**

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design

City of Southampton Local Plan Review – (as amended 2015)

SDP1 Quality of Development  
SDP7 Urban Design Context  
SDP9 Scale, Massing & Appearance

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Houses in Multiple Occupation SPD (HMO SPD, 2016)

The adopted Bassett Neighbourhood Plan (2016)

Other Relevant Guidance

The National Planning Policy Framework (2012)

# Agenda Item 7 17/01669/FUL

Appendix 3



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# Agenda Item 8

## Planning and Rights of Way Panel 24 April 2018 Planning Application Report of the Service Lead – Infrastructure, Planning & Development

<b>Application address:</b> Land At junction of Brownhill Way and Lower Brownhill Road, Southampton			
<b>Proposed development:</b> Erection of 14 two-storey houses (12 x three bedroom and 2 x two bedroom) with associated parking, vehicular access from Lower Brownhill Road and space for a children's play area.			
<b>Application number</b>	12/00596/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Simon Mackie	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	N/A	<b>Ward</b>	Redbridge
<b>Reason for Panel Referral:</b>	Request to vary Affordable Housing obligation within the Section 106 by way of a Deed of Variation	<b>Ward Councillors</b>	Cllr Whitbread Cllr Pope Cllr McEwing
<b>Referred by:</b>	N/A	<b>Reason:</b>	Viability Issues

<b>Applicant:</b> The Trustees of The Barker Mill Estates	<b>Agent:</b> Nigel Jacobs (Intelligent Land)
<b>Recommendation Summary</b>	<b>Delegate to the Service Lead - Infrastructure, Planning and Development to agree a deed of variation to the Section 106 Agreement dated the 30<sup>th</sup> August 2013</b>
<b>Community Infrastructure Levy Liable</b>	<b>No</b>

<b>Appendix attached</b>			
1	Original Section 106 Agreement (30 <sup>th</sup> August 2013)	3	DVS Viability Appraisal Report
2	Planning & Rights of Way Panel Report (21 <sup>st</sup> August 2012)		

### 1.0 Recommendation in Full

- 1.1 Delegate to the Service Lead – Infrastructure, Planning and Development to make a Deed of Variation to vary the Section 106 Agreement dated the 30<sup>th</sup> August 2013 to reduce the Affordable Housing provision, on viability grounds, to the provision of one (1) on-site unit, identified as Plot 3 a two-bed detached unit, plus an increase to the surplus provided as a financial contribution amounting to £25,000 and imposing the council's standard viability review mechanism clause.

## **2.0 Proposal & Background**

- 2.1 Further to the previous Panel Report taken to the 13<sup>th</sup> March 2018 Planning & Rights of Way Panel, where a similar request to reduce the affordable housing requirement was rejected, an improved offer has been made by the applicant to increase the financial contribution (surplus) to £25,000, plus the on-site Affordable Housing Unit, which is to be provided by St Arthur Homes.
- 2.2 The original application was approved by the Planning and Rights of Way Panel in August 2012, subject to the completion of a Section 106 Agreement, a copy of which can be found at *Appendix 1*. A copy of the officer's report is also appended at *Appendix 2*.
- 2.3 The site has stalled and has remained undeveloped for a number of years, with the current consented scheme having been demonstrated to be unviable and therefore unlikely to come forward with the current level of planning obligation being sought through the Section 106 Agreement dated the 30<sup>th</sup> August 2015.
- 2.4 The applicant has submitted a viability assessment which has been appraised by the Council's independent expert (District Valuations Service - DVS) and it has been found to be unviable, for the full policy compliant level of affordable housing, based on the current market conditions and established viability guidelines. A copy of the DVS Viability Appraisal Report can be found at Appendix 3 of this report. This is the same report and review that was considered by the Panel in March.
- 2.5 A Deed of Variation is therefore sought, again, to reduce the Affordable Housing provision from three (3) units to one (1) unit, provided on-site, based on the inclusion of the council's standard viability review and completion clauses, to ensure that if the development does not come forward for development in the short term, the council has the ability to review the viability position at a fixed point in the future. The applicants have tabled a revised off-site contribution of £25,000, which exceeds the amount that DVS found to be viable for this scheme.

## **3.0 Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently allows viability to be taken into account as set out within the "saved" policies of the City of Southampton Local Plan Review (as amended 2015), the City of Southampton Core Strategy (as amended 2015) at Policy CS15 – Affordable Housing. This policy confirms that a scheme's viability is a material consideration and where an independent assessment confirms that a scheme is struggling its delivery may still be policy compliant despite a shortfall to the 35% requirement.

## **4.0 Relevant Planning History**

- 4.1 This scheme (see above description of development) was approved by the Planning Panel in August 2012, and was implemented, but has become stalled due to viability issues of building out the consented scheme.

## **5.0 Planning Consideration Key Issues**

- 5.1 The key issue for consideration is whether the Planning & Rights of Way Panel are willing to vary the terms of the original Section 106 Agreement by way of reducing the provision of the fully policy compliant Affordable Housing obligation, on viability grounds, with the aim of encouraging the development proposal to be built out in the short term and make provision for one unit of Affordable Housing. The applicant (and officers) acknowledge that the Panel were unable to support this request in March and an improved offer has now been made. As officers had

previously recommended the previous variation for approval this improved offer is again acceptable to officers.

- 5.2 If the proposal is rejected it is unlikely that the consented development will come forward in the short term and a revised planning proposal will be required.
- 5.3 Another option for the applicant is to re-submit an updated viability assessment once the Section 106, 5 year period has elapsed (August 2018), whereby the Council will need to make a further decision (at Panel), which may then be subject of an appeal to the Planning Inspectorate where external resource would be needed to defend the appeal in light of the current recommendation and support offered by the DVS to the revised affordable housing offer. There is a risk that circumstances will change by the time an appeal is lodged and considered that any current surplus will no longer be viable. Similarly, circumstances may improve and the scheme could become more viable in the longer term, but officers consider that weight should be given to the delivery of housing to meet current need and therefore support the request.

## **6.0 Conclusion**

- 6.1 As such, the proposal is recommended for approval subject to securing the matters set out in the recommendations section of this report.

### **Local Government (Access to Information) Act 1985**

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**Southampton City Planning & Sustainability**      Appendix 1  
**Planning and Rights of Way Panel meeting 21st August 2012**  
**Planning Application Report of the Planning and Development Manager**

<b>Application address:</b> Land At junction of Brownhill Way and Lower Brownhill Road			
<b>Proposed development:</b> Erection of 14 two-storey houses (12 x three bedroom and 2 x two bedroom) with associated parking, vehicular access from Lower Brownhill Road and space for a children's play area.			
<b>Application number</b>	12/00596/FUL	<b>Application type</b>	FUL
<b>Case officer</b>	Jenna Turner	<b>Public speaking time</b>	15 minutes
<b>Last date for determination:</b>	23.07.12	<b>Ward</b>	Redbridge
<b>Reason for Panel Referral:</b>	Major application with objections and departure to Development Plan	<b>Ward Councillors</b>	Cllr Whitbread Cllr Pope Cllr McEwing

<b>Applicant:</b> The Trustees Of The Barker Mill Estates	<b>Agent:</b> Turley Associates
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<b>Recommendation Summary</b>	<b>Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report</b>
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### Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set out below. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 21.08.12 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

“Saved” Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS3, CS4, CS6, CS13, CS15, CS16, CS18, CS19, CS20, CS21, CS22 and CS25 and the Council’s current adopted Supplementary Planning Guidance. The guidance within the National Planning Policy Framework (2012) is also relevant to the determination of this planning application.

<b>Appendix attached</b>			
1.	Development Plan Policies		

## **Recommendation in Full**

Subject to the receipt of amended plans showing chimneys to the elevations of the dwellings:

1. Delegate to the Planning and Development Manager to grant planning permission subject to the completion of a S.106 Legal Agreement to secure:
  - i. Financial contributions towards site specific transport improvements in the vicinity of the site in line with Policy SDP4 of the City of Southampton Local Plan Review (March 2006), policies CS18 and CS25 of the adopted LDF Core Strategy (2010) and the adopted SPG relating to Planning Obligations (August 2005 as amended);
  - ii. A financial contribution towards strategic transport improvements in the wider area as set out in the Local Transport Plan and appropriate SPG/D;
  - iii. The provision of affordable housing in accordance with adopted LDF Core Strategy Policy CS15.
  - iv. Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
  - vi. Provision of agreed children's playspace prior to first occupation and submission of a management and maintenance plan for the open space.
2. That the Planning and Development Manager be given delegated authority to add to or vary planning conditions and relevant parts of the Section 106 agreement.
3. In the event that the legal agreement is not completed within two months of the panel meeting the Planning and Development Manager be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

### **1. The site and its context**

- 1.1 The application site is a 0.56 hectare piece of land which is broadly triangular in shape and lies between Brownhill Way and Lower Brownhill Road, on the edge of the city's administrative boundary. The site is bounded by mature hedgerow which contains some trees but the site itself is mainly an open grassed area. Beyond the south-west of the site is a pair of semi-detached properties known as New Cottages and an area of protected mature trees. The site was last used for the grazing of livestock and is therefore agricultural land.
- 1.2 The site lies to the north of the Millbrook residential area which typically comprises two-storey, terraced dwellings which are simply designed.

### **2. Proposal**

- 2.1 The application seeks full planning permission for the construction of 14, 2-storey houses. A pair of semi-detached houses would be provided to the eastern end of the site and the remaining houses would be detached in nature. The dwellings would provide a mixture of two and three-bedroom accommodation.

- 2.2 In terms of design, the dwellings would have a traditional appearance with pitched roof and gable end roof design and brick elevations. Each dwelling would be served by a private rear garden.
- 2.3 A single point of vehicular access would be provided from Lower Brownhill Road and two off-road car parking spaces would be provided for every dwelling. The layout would retain the hedgerow to the boundary of the site.
- 2.4 To the northern boundary of the site, a 3 metre high acoustic barrier would be provided and would be positioned inside of the existing boundary screening.
- 2.5 The layout includes a proposed area of public open space to the eastern end of the site and a footpath link between Brownhill Way and Lower Brownhill Road.

### **3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 1**. The National Planning Policy Framework came into force on 27 March 2012. Paragraph 214 of the Framework sets out that local policies adopted since 2004 retain their full material weight for decision making purposes.
- 3.2 The site is not allocated for a particular use or development within the Development Plan but lies within an area of Low Accessibility for Public Transport (Public Transport Accessibility Level Band 1).
- 3.3 Major developments are expected to meet high sustainable construction standards in accordance with the City Council’s adopted and emerging policies. In accordance with adopted Core Strategy Policy CS20 and Local Plan “saved” Policy SDP13.
- 3.4 The policies of the South East Plan, Southampton’s Core Strategy and Local Plan Review have been taken into account in the consideration of this application. The Core Strategy is in general conformity with the South East Plan, and it is not considered that the policies in the South East Plan either conflict with or add particular weight to the policies in the Core Strategy for this application. Consequently only the local statutory development plan policies (Core Strategy and Local Plan Review) have been cited in this report.

### **4. Relevant Planning History**

- 4.1 There have been no previous planning applications relating to this site. In 2011 a Screening Opinion was submitted (reference 11/01095/SCR) to ascertain whether or not the residential development of the site would require an Environmental Impact Assessment (EIA). It was concluded that the proposal did not constitute EIA development of more than local significance.

### **5. Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application, a publicity exercise in line with department procedures was also undertaken which included notifying adjoining

and nearby landowners, placing a press advertisement (03.05.12) and erecting a site notice (30.04.12). At the time of writing the report 5 representations including a petition with 34 signatures have been received from surrounding residents. The following is a summary of the points raised:

5.2 ***The proposal, along with other planned development within the area, which includes the Lidl distribution depot, would result in a cumulative traffic increase which would exacerbate congestion and highway safety issues.***

5.3 **Response**

The Council's Highway Team have raised no objection to the scheme in this respect. Having regard to the likely vehicular trips associated with the development, it is not considered that the proposal would result in a significant increase in traffic on the surrounding road network. The transport impact of the nearby proposed Lidl distribution depot will need to be assessed as part of that application.

5.4 ***The development would be subject to traffic noise and disturbance and will therefore be undesirable to prospective residents.***

5.5 **Response**

A noise report has been submitted with the application and demonstrates that an acceptable residential environment can be achieved by incorporating an acoustic barrier to the north of the site together with a specification for the glazing of the dwellings. The Council's Pollution and Safety team are in agreement with the submitted report and recommendations. The scheme is therefore considered to be acceptable in this respect. Details of the acoustic barrier design will be secured by condition.

5.6 ***Loss of green space would result in a decline in wildlife, including impact on bat foraging.***

5.7 **Response**

The submitted Ecology reports demonstrates that the grassed area to the centre of the site, on which the proposed development would be sited, has limited ecological value. The hedge to the boundary of the site is of greatest biodiversity value and its retention will ensure no harmful impact on ecology. The Council's ecologist agrees with these conclusions and therefore raises no objection to the scheme.

5.8 ***The proposal would result in an increase in traffic noise disturbance to nearby residential properties.***

5.9 **Response**

As stated above, the proposal is not considered to result in a significant increase in vehicular movements on the nearby roads and as such would not result in harm to residential amenity.

5.10 ***The development would exacerbate drainage issues on the site.***

5.11 **Response**

It is anticipated that a Sustainable Urban Drainage System will be incorporated into the scheme. A condition is suggested to secure final drainage details to

ensure that the proposal would not create drainage issues.

5.12 ***The development is in close proximity to livestock kept at the smallholding of 2 New Cottages which would create noise and odour issues for prospective residents of the development, leading to complaints.***

5.13 **Response**

The proposed houses would be positioned no less than 5 metres from the boundary with New Cottages. As such, the Council's Environmental Health Team have raised no concerns with the proposal in this respect.

5.14 ***Having regard to other planned development within the vicinity of the site, including the Ordnance Survey development, there is no need for the additional housing proposed.***

5.15 **Response**

There is a recognised need for housing within the city and the delivery of family housing is welcomed.

5.16 ***Due to the proximity of proposed dwellings to trees, the proposal will result in result in pressure to cut back these trees.***

5.17 **Response**

There is sufficient separation between the proposed dwellings and the nearby protected trees to ensure that the retention of these trees are not compromised. Habitable room windows and gardens within the development would not be adversely affected by overhanging tree branches. As such, the Trees Team have raised no objection to the proposal.

### **Consultation Responses**

5.18 **SCC Highways** - No objection subject to conditions and the developer entering into a section 106 legal agreement to secure site specific highway safety improvements and contributions to the improvement of the strategic road network.

5.19 **SCC Housing** – There is a requirement to provide 3 affordable housing units and the preference is for this to be provided on site. A planning obligation is recommended to secure the affordable housing units and ensure that they remain affordable in perpetuity.

5.20 **SCC Sustainability Team** – No objection. Suggests conditions to secure the necessary sustainability measures including level 4 of the Code for Sustainable Homes.

5.21 **SCC Architect's Panel** – Suggest that the proposed residential density is too low and the layout/design would benefit from a more intensive form of development. Suggest exploring the internal access being aligned along the northern site boundary.

Response:- Whilst these comments are noted, these changes have not been made as officers support the scheme with a lower density to enable a more open character with open space to be provided.

5.22 **SCC Environmental Health (Pollution & Safety)** - No objection. Suggests a

condition to secure satisfactory glazing to protect the prospective occupants from road transport noise disturbance. Conditions are also suggested to minimise disruption to nearby properties during the construction process.

- 5.23 **SCC Environmental Health (Contaminated Land)** - No objection. The site could be subject to historic land contamination and therefore conditions are suggested to investigate this and secure any necessary remediation.
- 5.24 **SCC Ecology** – No objection. The boundary hedgerow of the provides the greatest biodiversity value of the site and the retention of this will ensure that the proposal does not have a harmful impact on ecology. Two Ecology reports have been submitted and subject to conditions to secure the suggested mitigation measures, the proposal is considered to be acceptable.
- 5.25 **SCC Trees** – No objection. There is a group of protected trees beyond the western boundary of the site and the application details how these would be protected and retained. A condition is suggested to secure tree retention and safeguarding measures throughout the course of the development.
- 5.26 **SCC Archaeology** - No objection. Suggests conditions to secure an archaeological investigation and work programme.
- 5.27 **Hampshire Fire and Rescue** – No objection or conditions suggested.

## **6. Planning Consideration Key Issues**

- 6.1 The key issues for consideration in the determination of this planning application are:
- i. The principle of development and loss of open space;
  - ii. The design of the proposal together with the impact on the character of the area;
  - iii. The impact on residential amenity;
  - iv. The quality of the residential environment proposed;
  - v. The impact on trees and ecology;
  - vi. Parking and highways and;
  - vii. Mitigation of direct local impacts and Affordable Housing.

### **6.2 Principle of Development and loss of Open Space**

6.2.1 Policy CS21 of the Core Strategy safeguards all existing areas of open space within the city. In addition to this, the National Planning Policy Framework prioritises the development of previously developed land. As such, the principle of developing the application site needs careful consideration in terms of its function, landscape and biodiversity value.

6.2.2 Currently, the application site does not provide open space which is accessible to the public. The application proposal does however, incorporate genuine publicly accessible open space which will be secured through the section 106 agreement. The site's limited size, irregular shape and isolated nature, between two roads, means that it has limited appeal for long-term agricultural use. Furthermore, the applicants have indicated that there is also other land available within the Estate which could also be used for this purpose.

6.2.3 The Design and Access Statement submitted with the application includes an

analysis of the wider landscape value of the site which demonstrates that the development of the open space would not, in principle, have a harmful impact on the character of the area. This is discussed in more detail in section 6.3 below. It has also been demonstrated in the application submission that the proposal would not result in harm to either protected trees or the biodiversity value of the site.

6.2.4 Policy CS4 of the Core Strategy sets out the need to deliver housing within the city and moreover, the continual supply of family housing within the context of a difficult economic climate is welcome. In addition to this, the proposal incorporates genuine family housing, the need for which is set out in policy CS16 of the Core Strategy.

6.2.5 A residential density of 35dph would be achieved which is in accordance with the density range set out by policy CS5 for areas of Low Accessibility to public transport. A higher density, as suggested by the Architects Panel, would result in reduced spacing between buildings to the detriment of the established character of the area.

6.2.6 On balance, the benefits of providing genuine publicly accessible open space on the site is considered to justify the loss of private open space in this instance. As such, the Council's Planning Policy Team have raised no objection to the application and the principle of development is therefore considered to be acceptable.

### 6.3 Design and impact on character of the area

6.3.1 A key aspect of the proposed design approach is the use of a single point of vehicular access into the site from Lower Brownhill Road which enables the retention of the attractive boundary hedge and so protect the verdant character of the site. Furthermore, the hedge will help in significantly screening and softening the appearance of the development when viewed from public vantage points, ensuring that it would not have an adverse impact on the character of the area. The boundary treatment of the development (including the proposed acoustic barrier) would also run on the inside of the boundary hedge. A planning condition is suggested to protect the boundary hedge from removal and to prevent further points of access being created into and out of the site.

6.3.2 The proposal is designed to have a residential density which is at the lower end of the range suggested by the Core Strategy. This ensures that the scheme has a spacious and open character which does not harm the visual amenity of the area, whilst still achieving efficient use of the site. The low density nature of the scheme also enables additional tree planting and an area of public open space to be provided on the site, which are considered to be important characteristics of the scheme. In addition to this, the proposed dwellings would be set well away from the site boundaries to further contribute to a verdant and open character that would ensure the development of this open space is not visually harmful.

6.3.3 The proposed dwellings would be two-storey in scale, which reflects the surrounding residential development. In terms of design, the dwellings would appear well proportioned and their traditional appearance would be in keeping with the wider character of the area. The appearance of dwellings would benefit from the addition of chimneys and amended plans have been sought to resolve this.

#### 6.4 Impact on residential amenity

6.4.1 Having regard to the separation of the proposed dwellings to residential neighbours and the landscape screening of the site, it is considered that the proposal would not have a significant harmful impact on residential amenity.

#### 6.5 Quality of residential environment

6.5.1 A Noise Assessment has been submitted with the application which concludes that the impact of road transport noise on the proposed development can be mitigated against by provided an acoustic barrier to the northern boundary of the site and an appropriate specification of glazing. The Environmental Health Team agree with the conclusions of this report and planning conditions are suggested to secure the mitigation measures.

6.5.2 Each dwelling would be served by sufficient private and useable amenity space and outlook from habitable rooms would be acceptable. There is sufficient space on site to accommodate cycle and refuse storage and conditions are suggested to secure this.

6.5.3 The public routes and areas within the site would benefit from natural surveillance from the proposed dwellings. Each dwelling would benefit from an area of defensible space to the front and parking spaces would also relate well to the dwellings that they serve.

#### 6.6 Impact on trees and ecology

6.6.1 The centre of the site is grassed and clear of mature trees and shrubs and thereby has a low biodiversity value. The boundary hedge of the site has the greatest ecological value including the providing habitat for bat foraging. As such, the retention of the boundary hedge will ensure that the proposal will not have a detrimental impact on the biodiversity of value of the site.

6.6.2 There is a group of protected trees beyond the western site boundary. A Arboricultural report has been submitted with the application and demonstrates that these trees could be retained within the proposed layout and the Tree Team have therefore raised no objection to the application.

#### 6.7 Parking and Highways

6.7.1 The development provides 2 car parking spaces for each dwelling, which is the maximum number of car parking spaces permitted by the adopted Car Parking Standards Supplementary Planning Document. The Highways Team are satisfied that the access into the site would benefit from adequate site lines and that the development would not result in traffic congestion within the wider area. The internal road layout has been designed to accommodate a refuse collection vehicle and enable it to turn on site. The proposal is therefore considered to be acceptable in terms of parking and highways.

#### 6.8 Mitigation of direct local impacts and affordable housing

6.8.1 The development triggers the need for a S.106 Legal Agreement to secure appropriate off-site contributions towards open space, highway infrastructure improvements and affordable housing in accordance with Core Strategy Policy CS25. The applicants have confirmed their willingness to enter into the



necessary obligations to mitigate against the scheme's direct local impacts and have indicated that the required three affordable housing units would be provided on site. Subject to the completion of the legal agreement, the proposal is therefore considered to be acceptable.

## **7. Summary**

7.1 The proposed development would make good use of the site to provide housing and it is considered that there is no demonstrable harm to the development of the open space in terms of use, visual impact or biodiversity. The replacement of private open land with some public open space represents a net benefit of the proposal.

## **8. Conclusion**

8.1 Subject to the imposition of the suggested conditions attached to this report, the proposal would be acceptable. The application is therefore recommended for approval.

### **Local Government (Access to Information) Act 1985** **Documents used in the preparation of this report Background Papers**

1 (a), (b), (c), (d), 2 (b), (c), (d), 3(a), 4 (f), (vv) 6 (a), (c), (f), (i), 7 (a)

### **JT for 21/08/12 PROW Panel**

#### **PLANNING CONDITIONS**

##### **01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works**

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

##### **02. APPROVAL CONDITION - Details of building materials to be used [Pre-Commencement Condition]**

Notwithstanding the information shown on the approved drawings and application form no development works shall be carried out unless and until a written schedule of external materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented only in accordance with the agreed details. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, windows, doors and the roof of the proposed buildings. It is the Local Planning Authority's practice to review all such materials on site. The developer should have regard to the context of the site in terms of surrounding building materials and should be able to demonstrate why such materials have been chosen and why alternatives were discounted. If necessary this should include presenting alternatives on site.

Reason:

To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavoring to achieve a building of visual quality.

### 03. APPROVAL CONDITION - Landscaping, lighting & means of enclosure detailed plan [Pre-Commencement Condition]

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted to and approved in writing by the Local Planning Authority, which includes:

- i. proposed finished ground levels or contours; means of enclosure; public open space details; car parking layouts; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. an accurate plot of all trees to be retained and to be lost. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise);
- iv. details of any proposed boundary treatment, including retaining walls; and
- v. a landscape management scheme.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

The approved hard and soft landscaping scheme (including parking) for the whole site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

Reason:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

### 04. APPROVAL CONDITION – Retention of Boundary Hedge [performance condition]

The existing hedgerow on the boundaries of the site with Brownhill Way and Lower Brownhill Road shall be retained. No part of the hedge shall be damaged, cut back, cut down, uprooted or removed without the prior written agreement of the Local Planning Authority. In the event of any unauthorised damage to or removal of any part of the hedge occurring, replacement screen planting and/or boundary screening to a specification to be provided by the Local Planning Authority shall be carried out by the owner of the site within six months of the date at which the damage or removal was first brought to the attention of the landowner by the Local Planning Authority.

Reason:

In the interests of the character of the area and the local biodiversity.

05. APPROVAL CONDITION – Permitted Development Restriction – Access [performance condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no access other than that shown on the approved plan shall be formed to the site.

Reason

In the interests of highway safety and to ensure the retention of the boundary hedgerow in the interests of the character of the area.

06. APPROVAL CONDITION - Glazing - soundproofing from external traffic noise [Pre-Commencement Condition]

Unless otherwise agreed in writing by the Local Planning Authority, the fenestration shall be installed in accordance with the following specification:

Outer pane of glass - 10mm  
Air gap between panes - 12mm  
Inner pane of glass - 6 mm

or, with secondary glazing with a -

Outer pane of glass - 6mm  
Air gap between panes - 100mm  
Inner pane of glass - 6.4 mm

There must be no trickle vents installed in any case. For ventilation purposes in all cases, provision of acoustically treated 'BBA' approved mechanically powered ventilation should be the preferred option. However, provision of acoustic trickle vents will be acceptable. Once approved, that glazing shall be installed before any of the flats are first occupied and thereafter retained at all times.

Reason:

In order to protect occupiers of the flats from traffic noise.

07. APPROVAL CONDITION – Acoustic Barrier [pre-commencement condition]

Prior to the commencement of the development hereby approved, full details of the acoustic barrier to be positioned south of the northern boundary hedge, shall be submitted to and approved by the Local Planning Authority in writing. The barrier shall be installed in accordance with the approved details before the development first comes into occupation and thereafter retained as approved.

Reason:

To ensure future occupants are not adversely affected by road transport noise.

08. APPROVAL CONDITION - Ecological Mitigation Statement [Pre-Commencement Condition]

Prior to development commencing, including site clearance, the developer shall submit a

programme of habitat and species mitigation and enhancement measures, [as set out in the submitted Ecology reports] which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the programme before any demolition work or site clearance takes place.

**Reason**

To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

**09. APPROVAL CONDITION - Protection of nesting birds [Performance Condition]**

No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the Local Planning Authority and works implemented in accordance with the agreed details.

**REASON**

For the safeguarding of species protected by The Wildlife & Countryside Act 1981 (as amended) and the conservation of biodiversity

**10. APPROVAL CONDITION – Lighting Scheme [pre-occupation condition]**

Prior to the commencement of the development hereby approved, a detailed lighting scheme shall be submitted to the Local Planning Authority and approved in writing. The lighting scheme shall be installed in accordance with the agreed details for the development first comes into occupation and thereafter retained as approved. There shall be no other external lighting on the site otherwise than hereby agreed.

**Reason:**

In the interests of residential amenity and to prevent disturbance to foraging bats.

**11. APPROVAL CONDITION – Road Construction [Pre-Commencement Condition]**

No development hereby permitted shall be commenced until the Local Planning Authority have approved in writing:-

- A specification of the type of construction proposed for the roads, cycleways and footpaths including all relevant horizontal cross-sections and longitudinal sections showing existing and proposed levels together with details of street lighting, signing, white lining and the method of disposing of surface water.
- A programme for the making up of the roads and footpaths to a standard suitable for adoption by the Highway Authority

**Reason:**

To ensure that the roads and footpaths are constructed in accordance with standards required by the Highway Authority

**12. APPROVAL CONDITION - Tree Retention and Safeguarding [Pre-Commencement Condition]**

All trees to be retained pursuant to any other condition of this decision notice shall be fully safeguarded during the course of all site works including preparation, demolition, excavation, construction and building operations. No operation in connection with the development hereby permitted shall commence on site until the tree protection as agreed by the Local Planning Authority has been erected. Details of the specification and position

of all protective fencing shall be indicated on a site plan and agreed with the Local Planning Authority in writing before any site works commence. The fencing shall be maintained in the agreed position until the building works are completed, or until such other time that may be agreed in writing by the Local Planning Authority following which it shall be removed from the site.

Reason:

To ensure that trees to be retained will be adequately protected from damage throughout the construction period

#### 13. APPROVAL CONDITION – Foul and Surface Water Disposal [pre-commencement condition]

Prior to the commencement of the development hereby approved, full details of the means of foul and surface water disposal shall be submitted to the Local Planning Authority for approval in writing. The development shall proceed in accordance with the agreed details.

Reason:

To secure a satisfactory form of development.

#### 14. APPROVAL CONDITION – Archaeological Investigation [pre-commencement condition]

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

Reason:

To ensure that the archaeological investigation is initiated at an appropriate point in the development.

#### 15. APPROVAL CONDITION – Archaeological work programme [performance condition]

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

Reason:

To ensure that the archaeological investigation is completed.

#### 16. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of;

Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

And at no time on Sundays and recognised public holidays.

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect the amenities of the occupiers of existing nearby residential properties.

17. APPROVAL CONDITION- Land Contamination investigation and remediation [Pre-Commencement & Occupation Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;  
historical and current sources of land contamination  
results of a walk-over survey identifying any evidence of land contamination  
identification of the potential contaminants associated with the above  
an initial conceptual site model of the site indicating sources, pathways and receptors  
a qualitative assessment of the likely risks  
any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

18. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

Any changes to the agreed remediation actions will require the express written consent of

the Local Planning Authority.

Reason:

To ensure any land contamination not previously identified is assessed and remediated so as not to present any significant risks to human health or, the wider environment.

19. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

20. APPROVAL CONDITION - Refuse & Recycling Bin Storage [pre-commencement condition]

Notwithstanding the information already submitted, details of the elevations of the storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved. The facilities shall include accommodation for the separation of waste to enable recycling. The approved refuse and recycling storage shall be thereafter retained.

Reason:

In the interests of the visual appearance of the building and the area in general.

21. APPROVAL CONDITION – Cycle Storage [pre-commencement condition]

Prior to the commencement of the development hereby approved details of the external appearance of the cycle storage shall be submitted to the Local Planning Authority for approval in writing. The development shall proceed in accordance with the approved details and the storage thereafter retained as approved.

Reason:

To promote cycling as an alternative mode of transport to the private car

22. APPROVAL CONDITION - Amenity Space Access [performance condition]

The amenity space areas shown on the plans hereby approved, and pedestrian access to it, shall be made available as amenity space prior to the first occupation of the dwellings hereby permitted and shall be retained with access to it at all times for the use of all occupiers of the development .

Reason:

To ensure the provision of adequate amenity space in association with the approved dwellings.

23. APPROVAL CONDITION - Construction Method Statement [Pre-commencement

condition]

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Statement (CMS) for the development. The CMS shall include details of: (a) parking of vehicles of site personnel, operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials, including cement mixing and washings, used in constructing the development; (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction vehicles wheel cleaning; and, (g) details of how noise emanating from the site during construction will be mitigated. The approved CMS shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

Reason:

In the interest of health and safety, protecting the amenity of local land uses, neighbouring residents, the character of the area and highway safety.

#### 24. APPROVAL CONDITION - Code for Sustainable Homes [Pre-Commencement Condition]

Before the development commences, written documentary evidence demonstrating that the development will achieve at minimum Level 4 of the Code for Sustainable Homes, in the form of a design stage assessment, shall be submitted to the Local Planning Authority for its approval, unless an otherwise agreed timeframe is agreed in writing by the LPA.

Reason:

To ensure the development minimises its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

#### 25. APPROVAL CONDITION - Code for Sustainable Homes [performance condition]

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum Level 4 of the Code for Sustainable Homes in the form of post construction assessment and certificate as issued by a legitimate certification body, shall be submitted to the Local Planning Authority for its approval.

Reason:

To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

#### 26. APPROVAL CONDITION - Sustainable Drainage Systems (Pre-Occupation Condition)

Prior to the commencement of development a feasibility study demonstrating an assessment of the potential for the creation of a sustainable drainage system on site shall be carried out and submitted to the Local Planning Authority. Any measures shown to be feasible shall be verified in writing by the Local Planning Authority and implemented prior to first occupation of the development hereby granted consent. If the study demonstrates



the site has the capacity for the implementation of a sustainable drainage system, a specification shall be agreed in writing with the Local Planning Authority. A sustainable drainage system to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter. In the development hereby granted consent, peak run-off rates and annual volumes of run-off shall be no greater than the previous conditions for the site.

Reason:

To conserve valuable water resources, in compliance with and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and to prevent an increase in surface run-off and reduce flood risk.

**POLICY CONTEXT**

Core Strategy - (January 2010)

CS3	Promoting Successful Places
CS4	Housing Delivery
CS6	Housing Density
CS13	Fundamentals of Design
CS14	Historic Environment
CS15	Affordable Housing
CS16	Housing Mix and Type
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk
CS25	The Delivery of Infrastructure and Developer Contributions

City of Southampton Local Plan Review – (March 2006)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP6	Urban Design Principles
SDP7	Urban Design Context
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP13	Resource Conservation
SDP14	Renewable Energy
SDP16	Noise
NE4	Protected Species
CLT3	Protection of Open Spaces
CLT5	Open Space in New Residential Developments
CLT6	Provision of Children's Play Areas
CLT7	Provision of New Public Open Space
H1	Housing Supply
H7	The Residential Environment
TI2	Vehicular Access

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)

Planning Obligations (Adopted - August 2005 and amended November 2006)

Parking Standards (September 2011)

Other Relevant Guidance

The National Planning Policy Framework 2012

# Agenda Item 8

Appendix 2

## **Planning Obligation by Deed under Section 106 of the Town and Country Planning Act**

**1990**

relating to the development of land at the Triangle Site, South of Brownhill Way, Nursling,  
Southampton SO16 9LL

Dated :

30<sup>th</sup> August

2013

**SOUTHAMPTON CITY COUNCIL (1)**

**TIMOTHY JOBLING AND RICHARD MICHAEL MOYSE (2)**

DATE

30<sup>th</sup> August

2013

**PARTIES**

- (1) **SOUTHAMPTON CITY COUNCIL** of Civic Centre Southampton SO14 7PE ("the Council")
- (2) **TIMOTHY JOBLING AND RICHARD MICHAEL MOYSE** of New Kings Court, Tollgate, Chandler's Ford, Eastleigh Hampshire SO53 3LG and of The Estate Office, Longdown, Marchwood, Southampton, Hampshire SO40 4UH (together the Owner")

**RECITALS**

- A The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- B The Owner is the freehold owner of the Land being part of the title land registered with title absolute at the Land Registry under Title Number HP606431.
- C The Owner has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- D The Council has resolved to grant the Permission subject to the prior completion of this Deed.
- E The Owner has agreed that the Development shall be carried out only in accordance with the rights and obligations set out in this Deed.
- F The Owner has agreed to be a party to this Deed and consent to this Deed being entered into and to the obligations becoming binding on the Land.

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**OPERATIVE PART**

**1 DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings:

"the Act"	The Town and Country Planning Act 1990 (as amended)
"Additional Amount"	The amount calculated in accordance with Clause 17.1 and 17.3 hereof (and references to "the Revised Amount" shall mean the original amount of any contribution plus the Additional Amount)
"Affordable Housing"	Affordable housing as defined in policy CS15 and the glossary the Southampton City Council Local Development

	Framework Core Strategy January 2010
"Affordable Housing Units"	3 of the Residential Units within the Development which are identified for use for the purposes of Affordable Housing in accordance with the terms of this Deed
"Application"	The application for full planning permission dated 20 <sup>th</sup> April 2012 submitted to the Council for the Development and allocated reference number 12/00596/FUL.
"Chargee"	Any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or other relevant legislation or the successors in title to such receiver or manager
"Completed"	Practically complete save for minor snagging items such that it is reasonably fit for occupation (and "Completed" and "Completion" shall be construed accordingly)
"Conditions Precedent"	The conditions contained in clause 4
"Contributions"	The Highway Works Contribution, the Open Space Contribution and the Sports Pitches Contribution
"Deed"	This planning obligation made by deed
"Development"	The Development of the Land with the erection of 14 dwellings (11 x 3 bedroom detached, 2 x 2 bedroom terrace and 1 x 3 bedroom terrace) with associated parking, vehicular and pedestrian access and space for children's play as set out in the Application.
"the Development Plan"	The City of Southampton Local Plan (2006) and the Local Development Framework Core Strategy Development Plan Document January 2010
"the Enabling Powers"	Section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000, Section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity to or facilitating the enforcement of the obligations created by this Deed.
"Highway Condition Survey"	A survey to identify the current condition of the adopted highway in the vicinity of the Land namely Lower Brownhill Road from the junction with Brownhill Way to the Site which shall include:- <ul style="list-style-type: none"> <li>▪ a plan which identifies the area covered by the survey;</li> <li>▪ a written report detailing the current condition of the adopted roads and footways in the vicinity of the Land;</li> </ul>

	<ul style="list-style-type: none"> <li>▪ a list of defects in the adopted highway that exist prior to Implementation including specific photographs identifying the individual defects;</li> <li>▪ a photographic overview of the adopted roads and footways in the vicinity of the Land; and</li> <li>▪ an estimate of the size, types and level of construction traffic expected to service the Land during the construction of the Development</li> </ul>
"Highway Works"	<p>The provision of:-</p> <p><b>1. Site Specific Transport Contribution</b></p> <ul style="list-style-type: none"> <li>▪ A contribution towards parking improvements in the near vicinity of the site to reduce the demand of on carriageway parking and to provide a pedestrian link facility and improvement to the footpaths on the far side of Lower Brownhill Road £20,000.00</li> <li>▪ A contribution towards the making of a Traffic Regulation Order to prevent parking adjacent to the entrance to the Land to keep sight lines clear of obstruction £4,500.00</li> </ul> <p>Total: £24,500.00</p> <p><b>2. Strategic Transport Contribution</b></p> <ul style="list-style-type: none"> <li>• Contributions addressing the wider transport impact of the Development and funding Transport Infrastructure projects beyond the Land and its immediate surroundings, located on the transport corridor/s serving the Development</li> </ul> <p>14 Houses x £720 =£10,080.00</p> <p>Total= £10,080.00</p>
"Implementation"	<p>Commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in section 56(4) of the Act) save that for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements shall not be included (and "Implement" and "Implemented" shall be construed accordingly)</p>
"Index"	<ul style="list-style-type: none"> <li>▪ (in the case of amounts referred to in Clause 17.1) the Civil Engineering Prices Formula and</li> <li>▪ (in the case of amounts referred to in Clause 17.3) the</li> </ul>

	<p>Retail Prices Index issued by the Office for National Statistics;</p> <ul style="list-style-type: none"> <li>▪ or during any period when no such indices exist the Index which replaces the same or is the nearest equivalent thereto as the Council shall reasonably nominate taking into account any official reconciliation of changes in its basis of calculation</li> </ul>
"Interest"	Means interest at 4 per cent above the base lending rate of the Barclays Bank Plc (calculated on a daily basis from the date on which it fell due)
"the Land"	The land against which this Deed may be enforced shown edged with a bold black line on the Plan
"Legal Costs"	The Council's legal costs in connection with the preparation and completion of this Deed in the sum of £950.00
"Market Housing Units"	Residential Units within the Development which are not Affordable Housing Units
"the Monitoring Charge"	The costs of the council's Planning Agreements Officer for monitoring compliance with the terms of this Deed in the sum of £825.00
"Occupation" and "Occupied"	Occupation for the purposes permitted by the Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
"On –Site Play Area Scheme"	<p>A scheme for the provision and future maintenance of the On-Site Play Area, to include:-</p> <ul style="list-style-type: none"> <li>▪ a scaled plan identifying the location of the On-Site Play Area</li> <li>▪ a scheme of works for the provision of the On-Site Play Area identifying the equipment, surfacing and boundary treatment conforming to National Playing Fields Association standards for a Local Area for Play (LAP)</li> <li>▪ a scheme for future maintenance of the On-Site Play Area in compliance with standard BSEN1176 ensuring that the On-Site Play Area is maintained by way of a transfer to the Council together with the Council required commuted maintenance sum</li> </ul>
"On Site Play Area"	A Local Area for Play conforming to the National Playing Fields Association Standards to be provided for and maintained in accordance with the "On Site Play Area



The information is supplied in accordance with the provisions of the Data Protection Act 1998.  
 Site location and ownership plan.  
 Final  
 10/01/2011 10:30 AM  
 www.turleyassociates.co.uk

TURLEY ASSOCIATES  
 www.turleyassociates.co.uk

**ANNEXED LABORATORY**

*Richard Michael Hoyn*  
 by his attorney  
*W. D. H. B. S. A.*  
 Trusting to be by  
 his attorney  
*J. S. S. A.*

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	<b>Scheme"</b>
"the Open Space Contribution"	The sum of £3,782.00 towards the upgrade and improvement to the existing public open space at Lordshill Recreation Ground or such other areas of public open space that the Council notifies to the Owner.
"Plan"	The plan attached to this Deed
"the Permission"	The full planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in Schedule 3
"Post Development Highway Condition Survey"	A survey of the area outlined in the Highway Condition Survey to identify; <ul style="list-style-type: none"> <li>▪ any damage to the adopted highway caused by and during the construction of the Development, and;</li> <li>▪ a list of repairs which are required to put the adopted highway into the condition it was in prior to the construction of the Development as recorded in the Highway Condition Survey</li> </ul>
"Qualifying Occupiers"	Meaning residents who are unable to resolve their housing needs in the local private sector market because of the relationship between housing costs and income
"Registered Provider"	A registered provider as such under the Housing and Regeneration Act 2008 who has been agreed between the Owner and the Council for the purposes of this Deed
"Residential Units"	Individual units within the Development to be used for residential purposes.
"Sports Pitches Contribution"	The sum of £4,186.00 towards the upgrade of Southampton City's stock of playing
"Working Day(s)"	Days on which banks in the City of London are open to the public

## 2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all words shall be construed interchangeable in that manner.
- 2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.

- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.

### **3 LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act and the Enabling Powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

### **4 CONDITIONS PRECEDENT**

This Deed is conditional upon:-

- 4.1 the grant of the Permission; and
- 4.2 the Implementation of the Permission

save for the provisions of Clauses 13 20 22 23 which shall come into effect immediately upon completion of this Deed.

### **5 THE OWNER'S COVENANTS**

The Owner **HEREBY** covenants with the Council that it will observe and perform the covenants on its part contained in Schedule One.

### **6 THE COUNCIL'S COVENANTS**

Subject to the performance by the Owner of its obligations under this Deed the Council hereby covenants with the Owner that it will observe and perform the covenants on its part contained in Schedule Two.

### **7 RELEASE AND LAPSE**

- 7.1 It is hereby agreed that the Owner shall not be liable for a breach of any of its obligations under this Deed (save for antecedent breaches) after they shall have parted with all of their respective interests in the Land.
- 7.2 It is further agreed that this Deed shall lapse and be of no further effect if:
  - 7.2.1 the Permission shall lapse without having been Implemented; or
  - 7.2.2 the Permission shall be varied or revoked other than with the consent of the Owner; or
  - 7.2.3 the Permission is quashed following a successful legal challenge
- 7.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Deed.

**8 LOCAL LAND CHARGE**

- 8.1 This Deed is a local land charge and shall be registered as such by the Council.
- 8.2 Upon the full satisfaction of all the terms of this Deed the Owner shall request that the Council procure that all entries in the register of local land charges relating to it, other than those obligations which are of continuing effect, be removed as soon as reasonably practicable.

**9 DUTY TO ACT REASONABLY**

All parties to this Deed acknowledge that they are under a duty to act reasonably and (without prejudice to generality) if any Deed consent approval or expression of satisfaction is due from one party to another under the terms of this Deed the same shall not be unreasonably withheld or delayed.

**10 NO FETTER ON DISCRETION OR WAIVER**

- 10.1 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 10.2 Nothing in this Deed shall impose any contractual or other obligations on the Council to grant the Permission.
- 10.3 No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

**11 WARRANTY AS TO TITLE**

The Owner hereby warrants to the Council that the title details referred to in Recital B are complete and accurate in every respect.

**12 SEVERABILITY**

It is agreed that if any part of this Deed shall be declared unlawful or invalid by a Court of competent jurisdiction then (to the extent possible) the remainder of this Deed shall continue in full force and effect.

**13 THE COUNCIL'S COSTS**

13.1 The Owner hereby covenants with the Council that it will before the date of this Deed pay the Council's reasonable Legal Costs.

13.2 The Owner hereby covenants with the Council that it will on or before the date of this Deed pay the Council's Monitoring Charge.

**14 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999**

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed shall be enforceable by a third party who is not a party to the Deed and for the avoidance of doubt the terms of this Deed may be varied by Deed between the parties and the Council without the consent of any such third party.

**15 NOTIFICATION OF COMMENCEMENT/OCCUPATION**

The Owner covenants with the Council that it will:

15.1 notify the Council in writing of the date of Implementation within five Working Days of it occurring; and

15.2 notify the Council in writing of the date of Occupation for the first time of any part of the Development within five Working Days of it occurring together with the name and contact address of the party occupying; and

15.3 pay to the Council upon written demand its reasonable fees for additional monitoring caused by the Owner's non compliance with 15.1 or 15.2.

**16 NOTICES**

Any notices required to be served by one party on another under this Deed shall be served by First Class prepaid post or by facsimile transmission in the following manner:

16.1 on the Council at the address shown above marked "for the attention of the Planning Agreements Officer" and bearing the reference S106 Agreement - 12/00596/FUL - Triangle Site at Lower Brownhill Way"

16.2 on the Owner at the address as detailed above or as notified by the Owner in writing to the Council;

## 17 CALCULATION OF THE ADDITIONAL AMOUNT

The formulae in Clause 17.1 and 17.3 shall apply in relation to the Contributions specified in Clauses 17.1 and 17.3.

### 17.1 Highway Works Contribution

The Additional Amount shall be calculated as follows:-

The Highway Works costs shall be apportioned to the following elements in accordance with the percentages quoted alongside each.

Labour	30%
Plant	15%
Aggregates	5%
Bricks	0%
Cement	5%
Roadstone etc.	25%
Gas Oil	10%
Timber	5%
Steel reinforcement	5%
Metal sections	0%
(Total)	(100%)

For each element the revised cost shall be calculated by applying the formula:

$$\text{Amount after variation} = A \times (B + C) - A$$

Where:

A = the apportioned amount for that element

B = the Index for the element is at the date the Contribution is due; and

C = the Index for that element as at 16 August 2012 being the date when the works were costed.

### 17.2 The Payment of the Additional Amount

The Additional Amount shall only be payable on or after 16 August 2013 if the Highway Works Contribution remains unpaid at that time.

**17.3 Open Space Contribution and Sports Pitches Contribution**

In the event of any increase (but not decrease) in the Index the Additional Amount shall be the difference between the amount of the whole or any part of the relevant Contribution and the sum calculated as follows:-

$$\text{Amount after variation} = A \times (B \div C) - A$$

Where:-

A = the relevant Contribution to be varied;

B = the Index at the date at which the relevant Contribution was paid; and

C = the Index at the date of this Deed

**18 PAYMENT OF THE CONTRIBUTIONS**

18.1 The Owner must pay the Contributions and the Additional Amount (if any) as detailed in Schedule 1 to the Council by either:

18.1.1 cheque made payable to Southampton City Council;

18.1.2 by BACS or telegraphic transfer

18.2 All payments must state the Application reference number and the address to which this Deed relates.

18.3 Payment by either method referred to in 18.1 must be made for the attention of the Planning Agreements Officer at Southampton City Council Civic Centre Southampton SO14 7PE.

18.4 Payment by either BACS or TT must also include in its reference that payment is for the attention of the Planning Agreements Officer.

**19 INTEREST ON LATE PAYMENTS**

Any amount due from the Owner under this Deed which is not paid on the due date shall be payable with Interest in addition to the Additional Amount.

**20 NOTIFICATION OF SUCCESSORS IN TITLE**

21.1 The Owner covenants with the Council that it will give immediate written notice to the Council of any change of ownership of the Land if at such time the obligations contained within this Deed have not fully been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

**21 VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

**22 JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

**23 DELIVERY**

This Deed is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt the Deed shall be deemed not delivered despite being executed by the parties until such time as actual delivery of the Deed is authorised and agreed between the respective parties' appointed legal representatives or in the absence of one or more parties appointing a legal representative between the parties directly.

**IN WITNESS** whereof the parties hereto have executed this Deed on the day and year first before written.

## SCHEDULE ONE

### The Owner's Covenants with the Council

The Owner covenants with the Council as follows:-

- 1 Highway works**
  - 1.1 Prior to Implementation to pay to the Council the Site Specific Transport Contribution plus the Additional Amount (if any).
  - 1.2 Prior to Implementation to pay to the Council the Strategic Transport Contribution plus the Additional Amount (if any).
  
- 2 On Site Play Area**
  - 2.1 Not to Implement the Development until the On Site Play Area Scheme has been submitted to and approved by the Council.
  - 2.2 Not to Occupy the Development until the approved On Site Play Area Scheme has been Implemented in full to the satisfaction of the Council.
  - 2.3 To keep the On Site Play Area maintained in accordance with the approved On Site Play Area Scheme and to transfer the On Site Play Area to the body approved under the On Site Play Area Scheme and to pay the Councils reasonable legal fees if the transfer is to the Council
  
- 3 Open Space**
  - 3.1 Prior to Implementation to pay to the Council the Open Space Contribution plus the Additional Amount (if any).
  
- 4 Sports Pitches**
  - 4.1 Prior to Implementation to pay to the Council the Sports Pitches Contribution plus the Additional Amount (if any).
  
- 5 Highway Condition Survey**
  - 5.1 Prior to Implementation to submit to the Council for its approval a Highway Condition Survey.
  - 5.2 Not to Implement the Development until the Highway Condition Survey has been approved in writing by the Council.
  - 5.3 Not to Occupy any part of the Development until a Post Development Highway Condition Survey has been submitted to the Council for its approval.
  - 5.4 To secure the repairs identified in the Post Development Highway Condition Survey to rectify damage caused to the adopted highway during the



construction of the Development in line with the Council's quality standards by complying with either 5.4.1 or 5.4.2 below at the owner's election:

- 5.4.1 to carry out the repair works identified in the Post- Development Highway Condition Survey by no later than a date to be agreed in writing with the Council; or
- 5.4.2 to pay to the Council prior to first Occupation of any part of the Development or on an alternative date agreed with the Council a financial contribution (the amount of which is to be agreed between the Council and the Developer/Owner) in lieu of the owner undertaking the repair works identified in the Post Development Highway Condition Survey.

## **6 Affordable Housing**

In relation to Affordable Housing:-

- 6.1 To comply with the Council's requirements in relation to the site signage for the Affordable Housing Units.
- 6.2 The location size and tenure mixes of the Affordable Housing Units within the Development shall be as shown on a plan to be agreed in writing by the Owner and the Council prior to Implementation .
- 6.3 To procure that the Affordable Housing Units are completed no later than the date on which the last of the Market Housing Units is completed.
- 6.4 To ensure that the Affordable Housing Units remain affordable (subject to the provisions in paragraphs 6.9.2 and 6.10 hereof) to subsequent as well as initial Qualifying Occupiers and to include in any service charge provision to which the Affordable Housing Units are subject conditions which provide that the service charges and any ground rent payable by any Qualifying Occupier (or his successors in title) would not exceed an amount which would if payable result in the Affordable Housing Unit not being classed by the Council (acting reasonably) as low cost accommodation.
- 6.5 (Unless otherwise agreed in writing with the Council)
  - 6.5.1 (if the Owner is not a Registered Provider) not to Occupy any of the Market Housing Units without first having procured the disposal of the Affordable Housing Units (either freehold or leasehold (in the case of individual flats only) for a period of not less than 125 years) to a Registered Provider on terms which ensure that the Affordable Housing Units are and remain bound by the obligations in this paragraph 6
  - 6.5.2 to construct the Affordable Housing Units in accordance with the Homes and Communities Agency's (or its successor's) quality or other funding compliance standards applicable at the time of entering into a development agreement JCT contract or building agreement with a Registered Provider.

- 6.6 (If the Owner is not a Registered Provider) to transfer the Affordable Housing Units to a Registered Provider at nil land value and the Registered Provider will pay to the Owner a reasonable build cost.
- 6.7 To procure that the Affordable Housing Units are constructed fully in accordance with all material consents and legal requirements and are free from defects fit for Occupation and provided with a safe means of access and egress from the public highway prior to their handover or transfer (whichever the case may be) to a Registered Provider.
- 6.8 With effect from the date on which they are Completed the Affordable Housing Units shall not be Occupied other than by Qualifying Occupiers and for the avoidance of doubt this restriction shall apply not just to the first occupier of any of the Affordable Housing Units but to all subsequent occupiers of them.
- 6.9 It is agreed and declared that:
- 6.9.1 nothing in this Agreement shall be construed as imposing or otherwise implying any obligation on the Council to grant or make available any public subsidy or other financial support (or to assist the Developer in obtaining such public subsidy or other financial support) in respect of the Affordable Housing Units;
- 6.9.2 the provisions of paragraph 6.4 and 6.8 above shall cease to bind any of the Affordable Housing Units if in relation to that Affordable Housing Unit:
- 6.9.2.1 a statutory right to buy or to acquire pursuant to the Housing Act 1985 or Housing Act 1996 or the Housing and Regeneration Act 2008 (or any statutory re-enactment amendment or replacement thereof) has been exercised; or
- 6.9.2.2 it shall have been sold under a shared ownership lease and the leaseholder (or its mortgagee) has staircased his ownership under the lease to 100 percent; and
- 6.9.3 in the event of any dispute as to whether any proposed occupier of any Affordable Housing Unit is a Qualifying Occupier the matter shall be determined by the Council (acting reasonably).
- 6.10 In the event that any Affordable Housing Unit is the subject of a legal charge or mortgage and there is a default under any legal charge or mortgage of the Affordable Housing Units then the Chargee shall be entitled to exercise its power of sale free from the restrictions set out in paragraph 6 of this Schedule provided that the Chargee shall first have followed the procedure set out below:
- 6.10.1 the Chargee shall give a written and dated notice ("the Sale Notice") to the Council of its intention to exercise its power of sale and the date of this notice shall be the start date ("Start Date") for the purposes of clause 6.10.

- 6.10.2 at the same time as giving the Sale Notice the Chargee shall make an offer ("the Offer") being an amount based on their open market valuation ("the OMV") of the Affordable Housing Units (in accordance with the principles in 6.10.4.2) to sell the Affordable Housing Units to the Council (or to any nominated Registered Provider with the Council's consent) for the amount set out in the OMV or determined in accordance with sub-paragraph 6.10.6 ("the Purchase Price")
- 6.10.3 the Council may notify the Chargee in writing within one month of the Start Date whether or not it wishes to:-
- 6.10.3.1 accept the Offer based on the OMV; or
- 6.10.3.2 whether it can arrange for the Offer to be accepted by a Registered Provider who will accept the transfer of the Affordable Housing Units; or
- 6.10.3.3 refer the Offer to an independent surveyor under 6.10.6 below; or
- 6.10.3.4 whether it wishes to refuse the Offer.
- 6.10.4 if the Council shall notify the Chargee within the time specified within sub-paragraph 6.10.3 that either it wishes to accept the Offer or that a Registered Provider will accept the Offer then:
- 6.10.4.1 the Chargee shall co-operate with the Council to secure the transfer; and
- 6.10.4.2 the transfer to the Council or the Registered Provider shall be completed within two months of the date of notification under either 6.10.3.1 or 6.10.3.2 (or such longer period as may be agreed between the Chargee and the Council) ("the Completion Period").
- 6.10.5 The OMV shall represent the open market value of the Affordable Housing Units but subject to all or any tenancies of the Affordable Housing Units as may be subsisting at the date of the Sale Notice and disregarding the provisions of paragraph 6.4 and 6.8 of this Schedule
- 6.10.6 In the event that the Council serves a notice under 6.10.3.3 the Purchase Price shall be determined on the same basis of valuation as set out in 6.10.5 by an independent surveyor ("the Surveyor") (appointed not later than 7 days thereafter) experienced in valuing residential land and property who shall act as an expert and whose costs shall be borne by the Council and the Chargee in equal shares and the Surveyor shall be appointed in default of agreement between the parties on the application of either party by or on behalf of the President for the time being of the Royal Institute of Chartered Surveyors (or successor organisation) and the Surveyor's determination shall be binding on both parties and such appointment shall be made and accepted

upon the basis that he will be required to give his determination within one month of the date of his appointment

- 6.10.7 In the event that the Purchase Price is determined under the provisions of sub-paragraph 6.10.6 the transfer to the Council or to a Registered Provider shall be completed within 21 days of the date the Purchase Price is determined (or such longer period as may be agreed between the Chargee and the Council) ("the Shortened Completion Period").
- 6.10.8 if the Chargee does not wish to exercise its power of sale at any time after giving the Sale Notice or the Council does not wish to continue with the exercise of its power under the provisions of paragraph 6.10.3 that party shall give to the other not less than seven days' written notice of its intention to discontinue.
- 6.10.9 If either:
- 6.10.9.1 the Council fails to give notification to the Chargee within the time specified in sub-paragraph 6.10.3; or
  - 6.10.9.2 the Council having complied with the time periods specified in sub-paragraph 6.10.3 the transfer to either the Council or to a Registered Provider shall not be completed within the Completion Period or, if applicable, the Shortened Completion Period; or
  - 6.10.9.3 the Council shall serve notice of its intention to discontinue under sub-paragraph 6.10.8.
- then the Chargee shall be under no obligation to sell the Affordable Housing Units either to the Council or to a Registered Provider and shall be entitled to exercise its powers of sale without any of the provisions of paragraph 6 of this Schedule being binding on the purchaser or purchasers of the Affordable Housing Units or any part thereof or any successor in title hereto.
- 6.10.10 the Council shall in formulating or promoting any arrangements referred to in sub-paragraph 6.10.3 give consideration to protecting the interests of the Chargee in respect of monies outstanding under the charge or mortgage.

## **SCHEDULE TWO**

### **Council's Covenants**

The Council covenants with the Owner as follows:-

- 1 It will issue the Permission as soon as is reasonably practicable after the date of this Deed.
- 2 Where any payment referred to in Schedule One is paid for a particular purpose it will not be used by the Council otherwise than for that purpose or for such other purpose for the benefit of the Development as the Owner and the Council shall agree.
- 3 In the event that the Contributions or any element or part of the Contributions remains unspent or committed unconditionally to be spent within 10 5 years after the date on which it is paid to the Council then the Council shall on written demand return to the Owner the unexpended or uncommitted (as the case may be) part of the Contributions.
- 4 Upon written request from the Owner and upon payment of the Council's reasonable administration fee the Council shall provide to the Owner such evidence as it considers is reasonable to confirm the expenditure of the sums paid by the Owner under this Deed.
- 5 At the written request of the Owner and upon payment of the Council's reasonable administrative fee the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

**SCHEDULE THREE**

**Form of notice of planning permission**



## DETERMINATION OF APPLICATION

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (Development Management Procedure) (England) Order 2010

Turley Associates  
Mrs Rachel Lamb  
6th Floor North  
2 Charlotte Place  
Southampton  
SO14 0TB

In pursuance of its powers under the above Act and Regulations, Southampton City Council, as the Local Planning Authority, hereby gives notice that the application described below has been determined. The decision is:

#### **FULL APPLICATION - CONDITIONAL APPROVAL**

**Proposal:** Erection of 14 two-storey houses (12 x three bedroom and 2 x two bedroom) with associated parking, vehicular access from Lower Brownhill Road and space for a children's play area.

**Site Address:** Land At junction of Brownhill Way and Lower Brownhill Road

**Application No:** 12/00596/FUL

Subject to the following conditions.

#### 01. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

**Reason:**

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

#### 02. APPROVAL CONDITION - Details of building materials to be used [Pre-Commencement Condition]

Notwithstanding the information shown on the approved drawings and application form no development works shall be carried out unless and until a written schedule of external materials and finishes has been submitted to and approved in writing by the Local Planning Authority. Development shall be implemented only in accordance with the agreed details. These shall include full details of the manufacturers, types and colours of the external materials to be used for external walls, windows, doors and the roof of the proposed buildings.

**Reason:**

To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavoring to achieve a building of visual quality.

12/00596/FUL/32918  
03.APPROVAL CONDITION - Landscaping, lighting & means of enclosure detailed plan [Pre-Commencement Condition]

Notwithstanding the submitted details before the commencement of any site works a detailed landscaping scheme and implementation timetable shall be submitted to and approved in writing by the Local Planning Authority, which includes:

- i. proposed finished ground levels or contours; public open space details; other vehicle pedestrian access and circulations areas, hard surfacing materials, structures and lighting;
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. details of any proposed boundary treatment, including retaining walls; and acoustic barrier and;
- iv. a landscape management scheme.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

Unless otherwise agreed in writing by the Local Planning Authority, the approved hard and soft landscaping scheme (including parking) for the site shall be carried out prior to occupation of the building or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

Reason:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity. To ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

04.APPROVAL CONDITION - Retention of Boundary Hedge [performance condition]

With the exception of areas of hedgerow to be removed to accommodate existing and future vehicular and pedestrian accesses, The existing hedgerow on the boundaries of the site with Brownhill Way and Lower Brownhill Road shall be retained in accordance with the landscape management plan (pursuant to condition 03 above). With the exception of maintenance works, including highway maintenance, no part of the hedge shall be cut back, cut down, uprooted or removed. In the event of any unauthorised damage to or removal of any part of the hedge occurring, replacement screen planting and/or boundary screening to a specification to be provided by the Local Planning Authority shall be carried out by the owner of the site within six months of the date at which the damage or removal was first brought to the attention of the landowner by the Local Planning Authority.

Reason:

In the interests of the character of the area and the local biodiversity.

05.APPROVAL CONDITION - Permitted Development Restriction - Access [performance condition]

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no vehicular access other than that shown on the approved plan shall be formed to the site.

Reason

In the interests of highway safety and to ensure the retention of the boundary hedgerow in the interests of the character of the area.



06. APPROVAL CONDITION - Noise mitigation measures [pre-occupation condition]

Unless otherwise agreed in writing by the Local Planning Authority, the noise mitigation measures as set out in the submitted Mott MacDonald Noise Assessment dated 2011 shall be implemented before the development hereby approved first comes into occupation and thereafter retained as approved.

Reason:

To ensure future

07. APPROVAL CONDITION - Ecological Mitigation Statement [performance condition]

Unless otherwise agreed in writing by the Local Planning Authority, the Ecological Mitigation measures shall be implemented in accordance with the recommendations as set out in the submitted Ecosa Phase 2 Ecological Surveys dated May 2012.

Reason

To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

08. APPROVAL CONDITION - Protection of nesting birds [Performance Condition]

No clearance of vegetation likely to support nesting birds shall take place between 1 March and 31 August unless a method statement has been agreed in writing by the Local Planning Authority and works implemented in accordance with the agreed details.

Reason:

For the safeguarding of species protected by The Wildlife & Countryside Act 1981 (as amended) and the conservation of biodiversity.

09. APPROVAL CONDITION - Tree Retention and Safeguarding [Performance Condition]

All trees to be retained pursuant to any other condition of this decision notice shall be safeguarded during the course of all site works including preparation, demolition, excavation, construction, and building operations. No operation in connection with the development hereby permitted shall commence on site until the tree protection as set out in the submitted Barrel Tree Consultancy Arboricultural Impact Appraisal and Method Statement has been put in place. The tree protection measures shall remain in place for the duration of the construction works.

Reason:

To ensure that trees to be retained will be adequately protected from damage throughout the construction period.

10. APPROVAL CONDITION - Foul and Surface Water Disposal [pre-commencement condition]

Prior to the commencement of the development hereby approved, full details of the means of foul and surface water disposal shall be submitted to the Local Planning Authority for approval in writing. The development shall proceed in accordance with the agreed details.

Reason:

To secure a satisfactory form of development.

11. APPROVAL CONDITION - Archaeological Investigation [pre-commencement condition]

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

Reason:

To ensure that the archaeological investigation is initiated at an appropriate point in the development.

#### 12. APPROVAL CONDITION - Archaeological work programme [performance condition]

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

Reason:

To ensure that the archaeological investigation is completed.

#### 13. APPROVAL CONDITION - Hours of work for Demolition / Clearance / Construction [Performance Condition]

All works relating to the demolition, clearance and construction of the development hereby granted shall only take place between the hours of:  
 Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)  
 Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)  
 And at no time on Sundays and recognised public holidays.  
 Any works outside the permitted hours shall be confined to the internal preparations of the buildings without intrusive audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect the amenities of the occupiers of existing nearby residential properties.

#### 14. APPROVAL CONDITION- Land Contamination investigation and remediation [Pre-Commencement & Occupation Condition]

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the Local Planning Authority. That scheme shall include all of the following phases, unless identified as unnecessary by the preceding phase and approved in writing by the Local Planning Authority:

1. A desk top study including;
  - historical and current sources of land contamination
  - results of a walk-over survey identifying any evidence of land contamination
  - identification of the potential contaminants associated with the above
  - an initial conceptual site model of the site indicating sources, pathways and receptors
  - a qualitative assessment of the likely risks
  - any requirements for exploratory investigations.
2. A report of the findings of an exploratory site investigation, characterising the site and allowing for potential risks (as identified in phase 1) to be assessed.
3. A scheme of remediation detailing the remedial actions to be taken and how they will be implemented.

On completion of the works set out in (3) a verification report shall be submitted to the Local Planning Authority confirming the remediation actions that have been undertaken in accordance with the approved scene of remediation and setting out any measures for

maintenance, further monitoring, reporting and arrangements for contingency action. The verification report shall be approved by the Local Planning Authority prior to the occupation or operational use of any stage of the development.

Any changes to these agreed elements require the express consent of the local planning authority.

Reason:

To ensure land contamination risks associated with the site are appropriately investigated and assessed with respect to human health and the wider environment and where required remediation of the site is to an appropriate standard.

#### 15. APPROVAL CONDITION- Unsuspected Contamination [Performance Condition]

The site shall be monitored for evidence of unsuspected contamination throughout construction. If potential contamination is encountered that has not previously been identified no further development shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

Works shall not recommence until an assessment of the risks presented by the contamination has been undertaken and the details of the findings and any remedial actions has been submitted to and approved by the Local Planning Authority.

Any changes to the agreed remediation actions will require the express written consent of the Local Planning Authority.

Reason:

To ensure any land contamination not previously identified is assessed and remediated so as not to present any significant risks to human health or, the wider environment.

#### 16. APPROVAL CONDITION - Use of uncontaminated soils and fill [Pre-Commencement Condition]

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

Reason:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

#### 17. APPROVAL CONDITION - Refuse & Recycling Bin Storage [performance condition]

The refuse and recycling bin storage shall be provided in accordance with the plans hereby approved before the dwellings to which the stores relate first come into occupation and thereafter retained as approved.

Reason:

In the interests of the visual appearance of the building and the area in general.

#### 18. APPROVAL CONDITION - Cycle Storage [performance condition]

The cycle storage shall be provided in accordance with the plans hereby approved before the dwellings to which the storage relates first come into occupation and thereafter retained as approved.

Reason:

To promote cycling as an alternative mode of transport to the private car

#### 19. APPROVAL CONDITION - Amenity Space Access [performance condition]

The gardens for the dwellings shown on the plans hereby approved, and pedestrian access to it, shall be made available as amenity space prior to the first occupation of each dwelling hereby permitted and shall be retained with access to it at all times for the use of all occupiers of the development .

**Reason:**

To ensure the provision of adequate amenity space in association with the approved dwellings.

**20. APPROVAL CONDITION - Construction Method Statement [Pre-commencement condition]**

Before any development or demolition works are commenced details shall be submitted to and approved in writing by the Local Planning Authority making provision for a Construction Method Statement (CMS) for the development. The CMS shall include details of: (a) parking of vehicles of site personnel, operatives and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials, including cement mixing and washings, used in constructing the development; (d) treatment of all relevant pedestrian routes and highways within and around the site throughout the course of construction and their reinstatement where necessary; (e) measures to be used for the suppression of dust and dirt throughout the course of construction; (f) details of construction vehicles wheel cleaning, and, (g) details of how noise emanating from the site during construction will be mitigated. The approved CMS shall be adhered to throughout the development process unless agreed otherwise in writing by the local planning authority.

**Reason:**

In the interest of health and safety, protecting the amenity of local land uses, neighbouring residents, the character of the area and highway safety.

**21. APPROVAL CONDITION - Code for Sustainable Homes [performance condition]**

Within 6 months of any part of the development first becoming occupied, written documentary evidence proving that the development has achieved at minimum Level 4 of the Code for Sustainable Homes in the form of post construction assessment and certificate as issued by a legitimate certification body, shall be submitted to the Local Planning Authority for its approval.

**Reason:**

To ensure the development has minimised its overall demand for resources and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010).

**22. APPROVAL CONDITION - Sustainable Drainage Systems (Pre-commencement Condition)**

Prior to the commencement of development a feasibility study demonstrating an assessment of the potential for the creation of a sustainable drainage system on site shall be carried out and submitted to the Local Planning Authority. Any measures shown to be feasible shall be verified in writing by the Local Planning Authority and implemented prior to first occupation of the development hereby granted consent. If the study demonstrates the site has the capacity for the implementation of a sustainable drainage system, a specification shall be agreed in writing with the Local Planning Authority. A sustainable drainage system to the approved specification must be installed and rendered fully operational prior to the first occupation of the development hereby granted consent and retained thereafter. In the development hereby granted consent, peak run-off rates and annual volumes of run-off shall be no greater than the previous conditions for the site.

**Reason:**

To conserve valuable water resources, in compliance with and to demonstrate compliance with policy CS20 of the Local Development Framework Core Strategy Development Plan Document Adopted Version (January 2010) and to prevent an increase in surface run-off and reduce flood risk.

**23.APPROVAL CONDITION - Telecom masts [Performance Condition]**

The mast and equipment hereby approved and any subsequent replacement(s) shall comply with the International Commission on Non-ionising Radiation Protection Guidelines in respect of radio frequency emissions. Once fully installed and operational, the developer shall demonstrate to the Local Planning Authority compliance with the relevant guidelines.

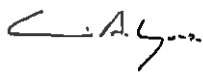
**Reason:**

To ensure that the installation complies and continues to comply with the guidelines and does not represent a threat to public health.

**Reason for granting Permission**

The development is acceptable taking into account the policies and proposals of the Development Plan and other guidance as set out below. Other material considerations such as those listed in the report to the Planning and Rights of Way Panel on the 21.08.12 do not have sufficient weight to justify a refusal of the application. The proposal would be in keeping with the site and surrounding properties and would not have a harmful impact on the amenities of the neighbouring properties. Where appropriate planning conditions have been imposed to mitigate any harm identified. In accordance with Section 38 (6) of the Planning & Compulsory Purchase Act 2004, Planning Permission should therefore be granted taking account of the following planning policies:

"Saved" Policies - SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP12, SDP13, H1, H2, and H7 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS3, CS4, CS6, CS13, CS15, CS16, CS18, CS19, CS20, CS21, CS22 and CS25 and the Council's current adopted Supplementary Planning Guidance. The guidance within the National Planning Policy Framework (2012) is also relevant to the determination of this planning application.



**Chris Lyons**  
**Planning & Development Manager**

If you have any further enquiries please contact:  
**Jenna Turner**

**IMPORTANT NOTE TO APPLICANT**

This decision has been made in accordance with the submitted application details and supporting documents and the development should be implemented in respect of the following plans and drawings.

Drawing No:	Version:	Description:	Date Received:	Status:
TA01		Location Plan		Approved
811-09	C	Elevational Plan		Approved

811-10	C	Elevational Plan	Approved
811-12	B	Elevational Plan	Approved
811-14	B	Elevational Plan	Approved
811-16	B	Elevational Plan	Approved
811-18	B	Elevational Plan	Approved
811-20	B	Elevational Plan	Approved
811-22	B	Elevational Plan	Approved
811-24	B	Elevational Plan	Approved
811-26	B	Elevational Plan	Approved
811-28	A	Elevational Plan	Approved
811-30	A	Elevational Plan	Approved
811-32	A	Elevational Plan	Approved
811-34	A	Roof Plan	Approved
811-35	A	Roof Plan	Approved
811/SHD1		General Plan	Approved
811-06	D	Site Plan	Approved
811-07	A	Floor Plan	Approved
811-08	A	Floor Plan	Approved
811-11	A	Floor Plan	Approved
811-13	A	Floor Plan	Approved
811-15	A	Floor Plan	Approved
811-17	A	Floor Plan	Approved
811-19	A	Floor Plan	Approved
811-21	A	Floor Plan	Approved
811-23	A	Floor Plan	Approved
811-25	A	Floor Plan	Approved
811-27	A	Floor Plan	Approved
811-29	A	Floor Plan	Approved
811-31	A	Floor Plan	Approved
811-33	B	Sections	Approved

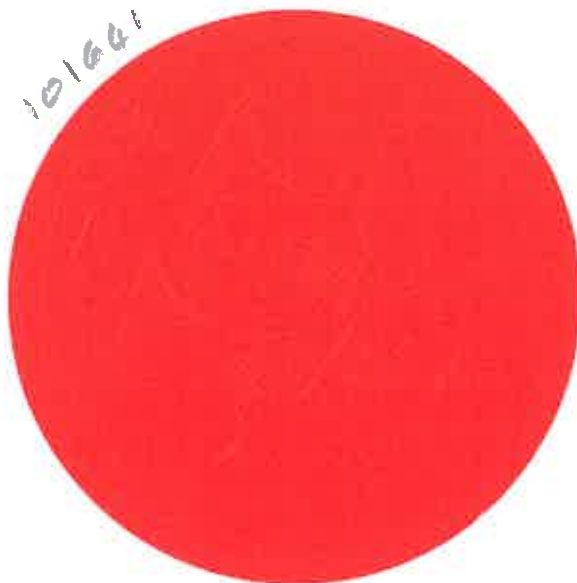
## NOTES

1. This permission relates to Planning Control only. Approval under the Building Regulations may also be required and should you be in any doubt about this, please contact Building Control Services, Tel. 023 8083 2558. Any other necessary consent must be obtained from the appropriate authority. Special attention is drawn to the fact that this permission does not relate to the display of advertisements and separate consent is required under the Town and Country Planning (Control of Advertisements) England Regulations 2007. Development affecting buildings of special Architectural or Historical interest is also subject of separate Listed Building Consent. Any queries should be made to Development Control Service as indicated below.
  2. This permission has been granted on the basis of all the information submitted by the applicant shown on the plans accompanying the application. Any material misstatement or wrong information may invalidate the permission.
  3. If the applicant is aggrieved by the decision of the Local Planning Authority to approve the proposed development, subject to conditions, they may appeal to the Secretary of State for Communities and Local Government, in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of decision. Appeals can be submitted on line [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) or by a form available from the Planning Inspectorate, 3/15 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS2 9DJ. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been granted other than subject to the conditions imposed by it having regard to the statutory requirements, to the provisions of the Development Order and to any directions given under that Order.
  4. If permission to develop land is granted subject to conditions, whether by the Local Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, they may serve on the Council a purchase notice requiring the Council to purchase their interest in the land in accordance with the provisions of Part IV of the Town and Country Planning Act 1990.
  5. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is granted subject to conditions by the Secretary of State on appeal or on a reference plane application to him. The circumstances in which compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
  6. Attention is drawn to the provisions of Section 12 of the Hampshire Act 1983 relating to access for the Fire Brigade, and you are advised to contact Building Control Services as set out in Note 1.
  7. For those developments which are covered by the Disability Discrimination Act, the attention of developers is drawn to the relevant provisions of the Act and to the British Standard B300:2004 Design of buildings and their approaches to meet the needs of disabled people code of practice.
  8. The applicant is recommended to retain this form with the title deeds of the property.
  9. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012)
- Please address any correspondence in connection with this form quoting the application number to: **Development Control Service, Southampton City Council, Civic Centre SOUTHAMPTON. SO14 7LS**

THE COMMON SEAL OF )  
SOUTHAMPTON CITY COUNCIL )  
was affixed in the presence of: )



Authorised Signatory:





SIGNED as a deed by )  
RICHARD MICHAEL MOYSE )  
Trustee of The Barker Mills Estates )  
In the presence of: )

Richard Michael Moyse by his  
attorney Whitford

Witness Signature: 

Name: FELICITY MARSHALL  
Address: BLAKE CARTHORN  
NEW KINGS COURT  
TOLLGATE  
CHANDLER'S FORD SO53 5LQ  
Occupation SOLICITOR


SIGNED as a deed by )  
TIM JOBLING )  
In the presence of: )

Timothy Jobling by his  
attorney W. Steel

Witness Signature: J. Karfoot

Name: Jane Karfoot  
Address: Blake Carthorn  
New Kings Court  
Tollgate  
Eastergh SO53 3LQ  
Occupation Secretary

Dated 23 January 2013

We certify this to be a true and complete copy of the original  
this 24 day of January 2013  
 **Blake Laphorn**  
New Kings Court, Tollgate  
Chandler's Ford, Eastleigh SO53 3LG

R M Moyse (1)

and

J R Steel and WOH Sowton (2)

TRUSTEE POWER OF ATTORNEY

**Blake Laphorn**  
New Kings Court  
Tollgate  
Chandlers Ford Eastleigh  
SO53 3LG  
Ref: JRS

THIS POWER OF ATTORNEY is given the 23 day of January, 2013

by me RICHARD MICHAEL MOYSE of 89 New Bond Street London W1

WHEREAS:-

- (1) Under and by virtue of the Settlements and other documents listed or mentioned in the First Schedule hereto the land and premises comprised in and assured by the several Conveyances and other documents listed or mentioned in Part 1 of the Second Schedule hereto and comprised in the Title Numbers listed in Part 2 of the Second Schedule hereto together with divers stocks shares and other investments and sums of cash with bankers building societies nominees and elsewhere (hereinafter called "the Trust Assets") are now held in the names of TIMOTHY JOBLING Chartered Accountant and RICHARD MICHAEL MOYSE Solicitor care of The Estate Office Longdown Marchwood Southampton SO40 4UH (hereinafter called the "Trustees" which expression includes the Trustees for the time being thereof) upon trust that the Trustees should sell the same with power to postpone sale and the Trustees are directed to hold the income of the Trust Assets until sale and the net proceeds of sale and the income thereof upon the trusts declared by the said Settlements and by divers Appointments made in exercise of powers herein contained
- (2) By virtue of the said Settlements the other documents mentioned in the First and Second Schedules hereto the Title Numbers mentioned in the Second Schedule hereto various deeds of appointment and discharge of trustees and the statutes in that behalf divers powers of management sale purchase leasing accepting surrenders of leases partition lending borrowing investment and other powers and discretions over or in relation to the Trust Assets are vested in the Trustees
- (3) I desire to appoint JOHN ROBERT STEEL and WILLIAM OLIVER HUGO SOWTON of New Kings Court Tollgate Chandlers Ford Eastleigh Hants SO53 3LG jointly and severally to be my Attorney during a forthcoming period when I shall not be available to act in person TO ACT on my behalf in the matter of the Trust Assets and to delegate to him such trusts and such powers and discretions over or in relation to the Trust Assets as are hereinafter mentioned

NOW THIS DEED WITNESSETH as follows:-

1. IN pursuance of the power for that purpose conferred on me by Section 25 of the Trustee Act 1925 (as amended by section 9 of the Powers of Attorney Act 1971 and section 5(1) of the Trustee Delegation Act 1999) and of any and every other power enabling me in that behalf

HEREBY APPOINT the said JOHN ROBERT STEEL and WILLIAM OLIVER HUGO SOWTON jointly and severally my Attorney during the period commencing on the 10th February 2013 until 9th February 2014 in my name and on my behalf jointly with the other Trustees or any person or persons or corporations who may be appointed trustee or trustees of the said Settlements Conveyances Title Numbers and other documents (or any one or more of them) in place of or in addition to the Trustees or any one or more of them to do all and any of the following acts and things

2. TO execute and exercise over or in relation to the Trust Assets and any property for the time being comprised in or subject to the said Settlements Conveyances Title Numbers and other documents all trusts powers and discretions for the time being vested in me as such trustee as aforesaid or in the Trustees under or by virtue of the said Settlements or any of the said Conveyances or Title Numbers and other documents listed or referred to in the Second Schedule hereto or any statute
3. FOR the purpose of executing or exercising any power or discretion hereby conferred to prepare agree to and settle sign execute and deliver all such deeds releases cheques or other documents as my Attorney shall consider requisite or desirable
4. TO receive and give receipts for any money or property payable or transferable to the Trustees or to me as such trustee as aforesaid
5. GENERALLY to act as my Attorney or agent in respect of the Trust Assets or the said trusts AND I HEREBY RATIFY AND CONFIRM and agree to ratify and confirm whatever my Attorney shall lawfully do or purport to do by virtue of this deed

IN WITNESS whereof I have executed these presents the day and year first before written

#### THE FIRST SCHEDULE

##### No.3 Discretionary Trust and Derivative Trusts

Dated 29 March 1965                      Settlement

##### B. No.4 Discretionary Trust

Dated 1 December 1999                  Settlement

##### C. AV Barker-Mill 1976 Settlement

Dated 23 March 1976                      Settlement

- D. AV Barker-Mill Accumulation and Maintenance Settlement  
 Dated 20 May 1997 Settlement
- E. Miss C.I. Barker-Mill 1997 Settlement of Reversionary Interests  
 Dated 5 December 1997 Settlement
- F. Miss C.I. Barker-Mill 1998 Voluntary Settlement  
 Dated 12 March 1998 Voluntary Settlement
- G. J. B. Barker-Mill 1997 Settlement of Reversionary Interests  
 Dated 5 December 1997 Settlement
- H. J. B. Barker-Mill 1998 Voluntary Settlement  
 Dated 12 March 1998 Voluntary Settlement
- I. Miss E. R. Hudson Davies 1997 Settlement of Reversionary Interests  
 Dated 30 April 1997 Settlement
- J. Miss E R Hudson Davies 1997 Voluntary Settlement  
 Dated 30 April 1997 Settlement
- K. Miss EV Hudson Davies 1997 Settlement of Reversionary Interests  
 Dated 30 April 1997 Settlement
- L. Miss E V Hudson Davies Voluntary Settlement  
 Dated 30 April 1997 Settlement
- M. Mrs AV Barker-Mill 1997 Discretionary Settlement  
 Dated 28 April 1997 Settlement
- N. Mrs AV Barker-Mill 1999 Settlement  
 Dated 19 January 1999 Settlement
- O. AV Barker-Mill 1999 Settlement  
 Dated 21 January 1999 Settlement
- P. AV Barker-Mill 2002 Discretionary Settlement  
 Dated 19 April 2002 Settlement
- Q. AV Barker-Mill 2002 Family Settlement  
 Dated 19 April 2002 Settlement
- R. Barker-Mill Hillyfields Trust  
 Dated 2 October 2008 Settlement

THE SECOND SCHEDULE

Part I

A. Documents relating to the Mill Estate

Dated 29 March 1965                      Conveyance

B. Documents relating to the Eling Estate

Dated 29 March 1965                      Conveyance

C. Documents relating to land adjoining the Village Hall Nursling

Dated 13 March 1967                      Conveyance

D. Documents relating to Land at Foxes Lane Nursling

Dated 28 August 1987                      Conveyance

Dated 24 January 1986                      Conveyance

Part 2

The Property comprised in the following title number namely title numbers HP166514 HP168442  
HP284252 HP 335111 HP353662 HP 381834 HP399945 HP410779 HP420038 HP432897 HP440285  
HP461811 HP468659 HP485061 HP495178 HP495187 HP497951 HP530759 HP538050 HP605936  
HP606356 HP606431 HP606433 HP607436 HP607437 HP609127 HP609128 HP625617 HP652698  
HP625945 HP653882 HP653929 HP654017 HP654076 HP654115 HP654162 HP656844 HP657331  
HP659093 HP659094 HP659095 HP659202 HP659203 HP659204 HP659205 HP659206 HP659208  
HP659209 HP659210 HP659211 HP659212 HP659752 HP659756 HP673081 HP673082 HP673083  
HP673087 HP673088 HP673089 HP676883 HP700602 HP717030 HP724026 HP736256 HP738735  
HP741886 HP743382 WS41704 and any title substituted for or deriving from such title numbers

SIGNED as a Deed and Delivered  
by the said RICHARD MICHAEL MOYSE  
in the presence of:-


)  
)  
) *R. Moysa*

*Simon Braker*

*Simon Braker  
Hill Farm  
Botley  
Southampton  
SO32 2BP*

Dated 23 January 2013

We certify this to be a true and complete copy of the original this 24. day of January 2013

 **Blake Laphorn**

New Kings Court, Tollgate  
Chandler's Ford, Eastleigh SO53 3LG

T. Jobling (1)

and

J R Steel and WOH Sowton (2)

TRUSTEE POWER OF ATTORNEY

**Blake Laphorn**  
New Kings Court  
Tollgate  
Chandlers Ford Eastleigh  
S053 3LG  
Ref: JRS

THIS POWER OF ATTORNEY is given the *23rd* day of *January* 2013

by me TIMOTHY JOBLING of Owslebury House Owslebury near Winchester Hants SO21 1LU

WHEREAS:-

- (1) Under and by virtue of the Settlements and other documents listed or mentioned in the First Schedule hereto the land and premises comprised in and assured by the several Conveyances and other documents listed or mentioned in Part 1 of the Second Schedule hereto and comprised in the Title Numbers listed in Part 2 of the Second Schedule hereto together with divers stocks shares and other investments and sums of cash with bankers building societies nominees and elsewhere (hereinafter called "the Trust Assets") are now held in the names of TIMOTHY JOBLING Chartered Accountant and RICHARD MICHAEL MOYSE Solicitor care of The Estate Office Longdown Marchwood Southampton SO40 4UH (hereinafter called the "Trustees" which expression includes the Trustees for the time being thereof) upon trust that the Trustees should sell the same with power to postpone sale and the Trustees are directed to hold the income of the Trust Assets until sale and the net proceeds of sale and the income thereof upon the trusts declared by the said Settlements and by divers Appointments made in exercise of powers herein contained
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- (3) I desire to appoint JOHN ROBERT STEEL and WILLIAM OLIVER HUGO SOWTON of New Kings Court Tollgate Chandlers Ford Eastleigh Hants SO53 3LG jointly and severally to be my Attorney during a forthcoming period when I shall not be available to act in person TO ACT on my behalf in the matter of the Trust Assets and to delegate to him such trusts and such powers and discretions over or in relation to the Trust Assets as are hereinafter mentioned

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3. FOR the purpose of executing or exercising any power or discretion hereby conferred to prepare agree to and settle sign execute and deliver all such deeds releases cheques or other documents as my Attorney shall consider requisite or desirable
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5. GENERALLY to act as my Attorney or agent in respect of the Trust Assets or the said trusts AND I HEREBY RATIFY AND CONFIRM and agree to ratify and confirm whatever my Attorney shall lawfully do or purport to do by virtue of this deed

IN WITNESS whereof I have executed these presents the day and year first before written

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HP741886 HP743382 WS41704 and any title substituted for or deriving from such title numbers

SIGNED as a Deed and Delivered  
by the said TIMOTHY JOBLING  
in the presence of:-

)

*Tim Jobling*

*[Signature]*

*Simon Boulton*

*Hill Farm,*

*Batley*

*Saxborough*

*SO32 2BP*

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Private and Confidential

Simon Mackie  
Planning Agreements Officer  
Planning & Sustainability  
Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY

Southampton Valuation Office  
2<sup>nd</sup> Floor Overline House  
Blechynden Terrace  
Southampton  
Hampshire. SO15 1GW

Our Reference: GAT/1652831  
Your Reference: 12/00596/FUL

Please ask for : Gavin Tremeer  
Tel : 03000 504331  
Mobile : 07786 734080  
E Mail : gavin.a.tremeer@voa.gsi.gov.uk

Date : 13<sup>th</sup> November 2017

Dear Simon,

**DESK TOP REVIEW OF DEVELOPMENT VIABILITY ASSESSMENT  
PROPOSED SCHEME: Land at junction of Brownhill Way and Lower Brownhill Road,  
Southampton. SO16 9LF.**

I refer to our previous fee quote and your email dated 11<sup>th</sup> October 2017 confirming your formal instructions to carry out a desk top viability assessment in respect of the above proposed development.

This report is not a formal valuation.

The date of assessment is 13<sup>th</sup> November 2017.

We have reviewed the assessment provided by Intelligent Land on behalf of the applicant Barker Mill Estates.

The assessment has been made by comparing the residual value of the proposed scheme with an appropriate benchmark figure having regard to the National Planning Policy Framework and the published RICS Guidance Note into Financial Viability in Planning.

The principal objective of our Brief and the subject of this report are to establish whether there is financial justification for any affordable housing and section 106 contributions.

**General Information**

It is confirmed that the viability assessment has been carried out by Gavin Tremeer, a RICS Registered Valuer, acting in the capacity of an external valuer, who has the appropriate knowledge and skills and understanding necessary to undertake the valuation competently, and is in a position to provide an objective and unbiased valuation.

Checks have been undertaken in accordance with the requirements of the RICS standards and have revealed no conflict of interest. DVS has had no other previous material involvement with the property.

The client will neither make available to any third party or reproduce the whole or any part of the report, nor make reference to it, in any publication without our prior written approval of the form and context in which such disclosure may be made.

You may wish to consider whether this report contains Exempt Information within the terms of paragraph 9 of Schedule 12A to the Local Government Act 1972 (section 1 and Part 1 of Schedule 1 to the Local Government (Access to Information Act 1985) as amended by the Local Government (access to Information) (Variation) Order 2006.

The report should only be used for the stated purpose and for the sole use of your organisation and your professional advisers. No responsibility whatsoever is accepted to any Third Party who may seek to rely on the content of the report unless previously agreed.

This report remains valid for 3 (three) months from its date unless market circumstances change or further or better information comes to light, which would cause me to revise my opinion.

Following the referendum held on 23 June 2016 concerning the UK's membership of the EU, the impact to date on the many factors that historically have acted as drivers of the property investment and letting markets has generally been muted in most sectors and localities. The outlook nevertheless remains cautious for market activity over the coming months as work proceeds on negotiating detailed arrangements for EU exit and sudden fluctuations in value remaining possible. We would therefore recommend that any valuation is kept under regular review.

You have forwarded the developers assessment to review. We have now undertaken our own research and assessment and would report as follows:

### **Background:**

The planning reference for this site is 12/00596/FUL, and is as follows:

*'Erection of 14 two-storey houses (12 x three bedroom and 2 x two bedroom) with associated parking, vehicular access from Lower Brownhill Road and space for a children's play area.'*

The proposed site extends to approximately 0.51 Ha (1.25 Ac) and sits within a predominantly residential location. It is bounded by roads with the exception of the western boundary which abuts neighbouring arable land (Lidl site) and an existing residential unit.

We understand that consent was granted in 2012 and that this has been implemented to protect the consent but that the development has now stalled. It is the contention of the applicant that at the policy level of section 106 contributions, CIL contributions and 3 affordable units, the scheme is not viable.

The applicant is stating that due to a number of significant unforeseen abnormal costs, that the scheme can no longer provide the policy level of affordable housing. Following their assessment of the policy compliant scheme, their appraisal shows a negative land value of -£315,142. Their 100% open market appraisal shows a profit on GDV of 18.74% and they therefore contend that no affordable housing contribution can be made.

### **The Scheme:**

We have been provided with the assessment undertaken on behalf of the applicant.

For the purpose of this desk top assessment we assume the areas stated on the floor plans provided are correct. The scheme as proposed by the applicant is as follows:

Type	Number of Units	Average Unit Size (Sq m)	Gross Internal Area (Sq m)
<b>Private Residential</b>			
Two bed semi-det house	1	90.4	90.4
Two bed detached house	1	70.6	70.6
Three bed semi-det house	1	70.6	70.6
Three bed detached house	11	82.7	909.7
<b>Total</b>	<b>14</b>		<b>1,141.3</b>

### Viability Assessment:

This report deals with each major input into the viability assessment of the scheme. This desk top assessment has been undertaken following our own research into both current sales values and current costs. We have used figures put forward by the applicant if we believe them to be reasonable.

We have used a bespoke excel based toolkit with cash flow to assess the scheme which is attached as Appendix 1.

We would summarise our assessment of the Scheme as follows:

#### 1) Development Value -

##### a) Private Residential / Commercial:

The applicant has provided detailed comparable sales evidence from nearby new-build developments, and from existing properties. They have also commissioned estate agents Sequence Homes to provide their opinion of value and based on this have adopted the following average values compared to ours:

Type	Developer	DVS
Two bed semi-det house	£210,000	£210,000
Two bed detached house	£215,000	£215,000
Three bed semi-det house	£240,000	£240,000
Three bed detached house	£236,818	£236,818
<b>Total</b>	<b>£3,270,000</b>	<b>£3,270,000</b>

From our own research we consider the figures provided for the residential units to be reasonable and we have therefore used the same in our appraisal.

##### b) Gross Development Value (GDV):

On the basis of the proposed scheme, with no affordable housing, we assess the gross development value to be £3,270,000 in line with the applicant's submission.

## 2) Development Costs -

### a) **Build Cost:**

The applicant has not provided a detailed breakdown of costs for this scheme but have instead relied on the BCIS guide. They have adopted the following base build rates:

Detached Houses - £1,371 per m<sup>2</sup>

Semi-Det. Houses - £1,138 per m<sup>2</sup>

In their report the applicant has stated that the scheme will be built out by a local builder; Barker Mill Estates in this instance.

For a scheme in a lower value location such as this we would normally expect to see build cost base rates closer to the Lower Quartile BCIS figures.

However, the applicant has indicated that a BCIS Median level of cost is appropriate as smaller schemes such as this will not benefit from quantum discounts available to volume housebuilders who are able to order in bulk and we would agree that with smaller developments such as this, economies of scale are less easily achieved when compared with larger green field schemes.

The above proposed figures put forward actually sit between the current Lower Quartile and Median costs, with the detached property costs (which make up the majority of the scheme) being close to the Lower Quartile figure. Current BCIS figures adjusted to the Southampton location are as follows:

Detached:

Lower Q = £1,346 per m<sup>2</sup>

Median = £1,606 per m<sup>2</sup>

Semi-detached:

Lower Q = 1,072 per m<sup>2</sup>

Median = £1,180 per m<sup>2</sup>

We therefore consider them not to be overstated and have included the same in our appraisal.

In addition an external works cost allowance of 15% of base construction costs has been included (to include the proposed children's play area), which again is roughly what we would expect to see for a scheme of this nature.

Overall we have included a base build cost of £1,526,861 (excluding contingency, professional fees or abnormal costs), plus external works costs of £229,029 which is in line with the applicant's submitted figures.

**b) Build Contingency** – The applicant has included a contingency of 5% which is reasonable and in line with other similar schemes we have previously assessed.

**Professional Fees** – The applicant has included professional fees totalling £190,858 which equates approximately **10.89%** of base build costs and externals. They assert that this is higher than usual due to quantum given the small size of the scheme, plus additional third party input as follows:



- Enhanced ecology work relating to CFSH.
- Enhanced design work relating to CFSH.
- CFSH calculations, reporting and advice.
- Enhanced drainage advice relating to CFSH.

Typically we would expect to see closer to 8% for these costs but this can be higher where the scheme is more complex and would require additional consultation.

The scheme we have assessed is on an all-private basis due to the contention of the applicant and with the policy compliant scheme already having consent.

We are informed by the applicant that on an all-private basis it is proposed that the CFSH condition be removed through variation to assist viability. Therefore if we are considering the scheme on this basis no regard should be had to the additional professional fees relating to this element.

However, overall £190,858 is not considered to be particularly excessive as a total professional fee cost but we have reduced it slightly to **10%** (total £175,516) instead to reflect the CFSH consultation fees.

**c) Abnormal costs** – The applicant has provided a breakdown of abnormal costs undertaken by Sutherland Surveyors. Costs totalling £415,000 have been stated in the applicant's report as a consequence of the current S.106 agreement, but they state that items relating to CFSH and air source heat pumps will be removed for an all-private scheme, thereby reducing the total to £267,000. The bulk of these costs are as follows:

- Foul pumping station and associated works and items - £113,000 total
- Ditch culverting - £52,000
- Permeable paving and attenuation tank - £30,000
- Over-extra for deep foundations - £40,000

We have briefly consulted our QS team to discuss these additional costs who have talked us through the circumstances where they will be required.

The costs are considered to be reasonable on the assumption that the items and works are required for this site and we have therefore included them in our assessment.

Sometimes an external works allowance can reflect some of these types of works. However, in this instance the external works allowance of 15% (reflected separately) is at the low end of the range we would expect to see and therefore the additional over-extra costs are considered to be justified.

**d) Section 106/CIL Costs** – The applicant included the following in their appraisal:  
 S.106: £6,890  
 CIL: £79,876

However, we are informed by you that the required contributions are actually:

S.106: £42,548  
 CIL: £0

We have therefore included these figures in our appraisal instead but if this differs, it will affect our assessment.

e) **Sales and Marketing Fees** – The applicant has included a total of 2% for sales and marketing costs in their appraisal which is reasonable for this scheme.  
In addition, they have included legal sales fees at £1,000 per unit which is also deemed reasonable and we have therefore included the same in our appraisal.

f) **Finance costs** - The applicant has adopted a rate of 6.5% which is within the range we would expect to see and in line with similar schemes that we have recently assessed.

g) **Developers Profit** – In the current market a range of 15% to 20% of GDV for private residential, 6% of GDV for affordable is considered reasonable.

The applicant has adopted a profit level of **20%** of gross development value in their appraisal which is deemed to be slightly high taking account the overall size and timeframe of the proposed development and the relative risk associated with it.

We consider a developer profit of **17.5%** on GDV to be sufficient for this scheme which is in line with other similar recent schemes we have assessed in this location and have therefore adopted this in our appraisal for the purposes of viability testing.

h) **Development Programme** – The applicant has assumed the following development timeframe for this scheme:

- Construction Period of 12 months (excluding **6 month** lead-in period)
- Sale period of **12 months** beginning directly after the construction period.

Usually with a scheme of this nature we would expect to see an overlap with the construction period and sales period but it is understood that due to the site only having one access point that the construction will need to be fully completed before the units can be sold.

We agree with the suggested construction period but have reduced the lead-in period to **4 months** due to this being a full planning application. We have also reduced the sales period to **8 months** which is calculated on a straight line basis within the cash flow of the appraisal.

i) **Land Value** – Following various appeal cases it is well established that viability assessments are carried out in order to calculate the residual land value that the scheme can afford which is then compared to the existing use value, or alternative use value of the site.

The applicant has included a figure of £75,000 which is based on the existing use value of the site as grazing/scrub land plus a seller incentive as follows:

- Existing use value = £62,500 (based on £50,000 per acre)
- Plus 20% seller incentive of £12,500

Total = £75,000

They have provided evidence of grazing land sales within the New Forest location which indicate a value in the region of £40,000 per acre for a small parcel of equestrian use grazing land. They have increased this to £50,000 per acre for the subject site due to its close proximity to Southampton.

As an existing use value, taking account of the quality of land and lack of any equestrian facilities such as water supply, stables or sand school area we consider the existing use value to be at the higher end of the range but accept that being within convenient reach to a large city could make it a more attractive proposition.

Overall, taking account of potential hope value for development we consider that in the current market a prospective developer would pay up to £75,000 for this site even as a speculative purchase for development in the medium – long term future. Therefore, for the purposes of viability testing we have included the same in our appraisal.

In addition agent/legal fees have been included at a standard rate of 1.75%.

### **Overall assessment:**

Following our desktop assessment we are of the opinion that the proposed scheme, with no affordable housing and a developer profit of 17.5% is borderline in terms of being viable. Our appraisal shows that a small potential surplus of up to £76,846 is available for an off-site affordable housing contribution (See Appendix 1).

We broadly agree with the figures put forward by the applicant with the exception of the following (as highlighted in bold above):

- Professional fees
- CIL/S.106 contributions
- Developer profit
- Development programme (lead-in, and sales periods)

The biggest difference between our figures is with the developer profit. With no affordable housing contribution our appraisal indicates that the scheme would achieve a profit level of approximately 20% on GDV but due to the relatively small scale nature of this scheme and short timeframe, we consider 17.5% to be a reasonable level of profit, thereby providing a small surplus for affordable housing. This is in line with numerous other agreements for similar schemes in the south of England.

The main factor impacting the viability of this scheme is the low value nature of the location, but it is also worth noting that 12 of the 14 proposed units at this site are detached.

Construction costs for detached units are higher than for equivalent sized terrace and semi-detached houses, although there would be a difference in achievable revenue between these types. However, by constructing terrace and/or semi-detached units the site density could be increased which would help to improve viability.

The newly identified abnormal costs also impact viability but to a slightly lesser extent.

Due to the sensitivity of the valuation appraisal, a slight reduction or increase in these figures will have a large influence on the surplus available for affordable housing.

We consider that it would be reasonable in these circumstances to require the applicant to enter into an agreement to build the site to core and shell within 18 months. If they had not achieved this within the timeframe then a second viability assessment would take place giving the Council the opportunity to achieve a higher commuted sum if sales prices had improved.

I trust this report deals with the issues as required but please do not hesitate to contact me if you have any queries and I would welcome the opportunity of discussing this with you in greater detail.

Yours sincerely

Gavin Tremeer BSc MRICS  
RICS Registered Valuer  
Development Consultant  
DVS South East

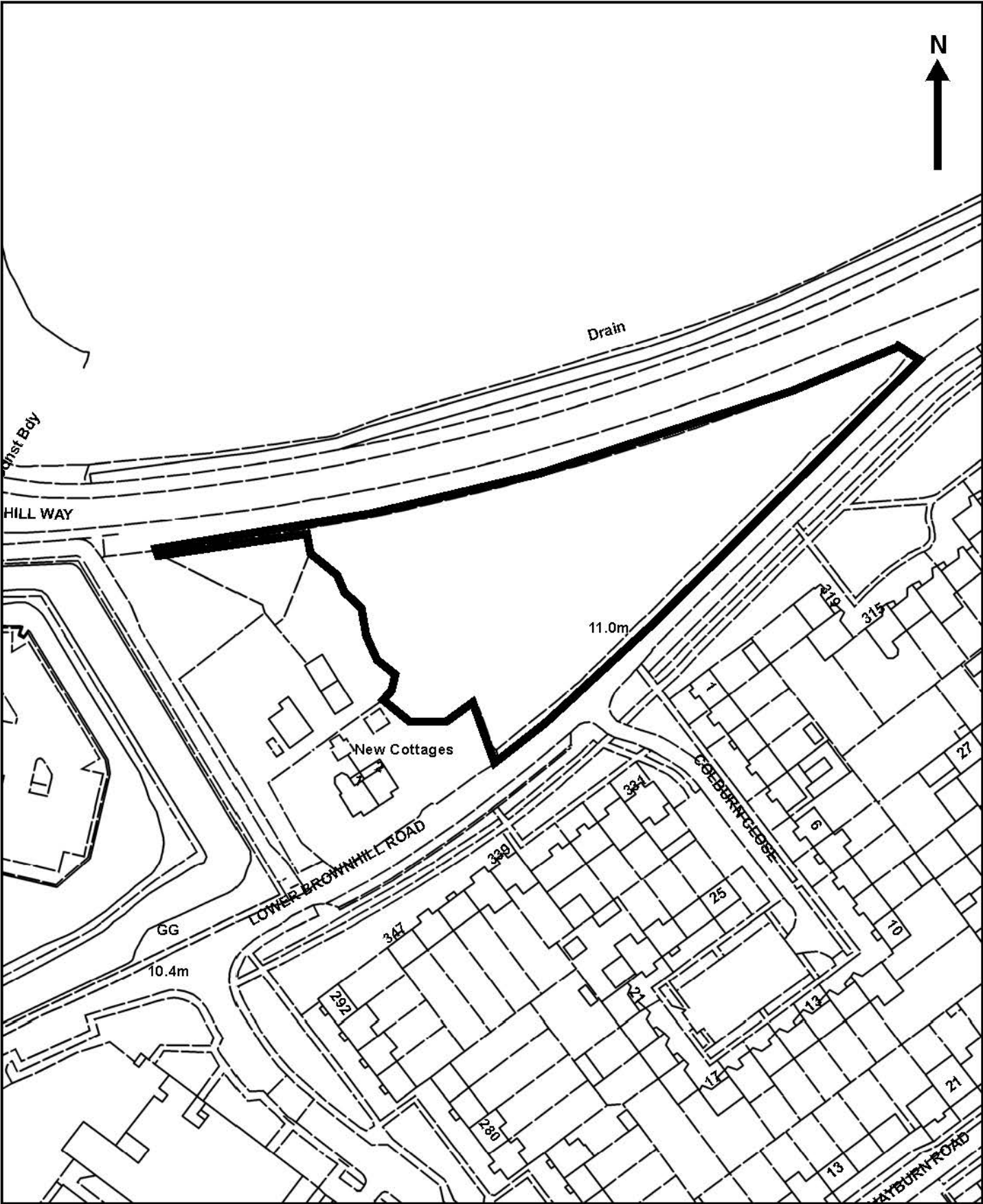
Reviewed by:

Tony Williams BSc MRICS  
Head of Viability (Technical)  
DVS South East

Appendix 1 – Viability Appraisal 100% Private Scheme

DRAFT

Appendix 4



Scale: 1:1,250

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